

**ASSEMBLY BILL**

**No. 110**

**Introduced by Assembly Member Laird**

**(Coauthors: Assembly Members Berg, Evans, Hancock, Jones, and Leno)**

**(Coauthors: Senators Kehoe and Kuehl)**

January 5, 2007

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An act to amend Section 121349.3 of, and to add Chapter 1.5 (commencing with Section 120780) to Part 4 of Division 105 of, the Health and Safety Code, relating to the use of state HIV prevention and education funds for distribution of needles and syringes.

LEGISLATIVE COUNSEL'S DIGEST

AB 110, as introduced, Laird. Drug paraphernalia: clean needle and syringe exchange projects.

(1) Existing law, with certain exceptions, makes it a misdemeanor for a person to deliver, furnish, transfer, possess with intent to deliver, furnish, or transfer, or manufacture with the intent to deliver, furnish, or transfer, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance. Existing law provides an exception to this general rule by authorizing a public entity, its agents, or employees to distribute hypodermic needles or syringes to participants in clean needle and syringe exchange projects authorized by the public entity pursuant to a declaration of a local emergency due to the existence of a critical local public health crisis.

Existing law established the Office of AIDS in the State Department of Health Services. That office, among other functions, provides funding for AIDS prevention and education. Commencing July 1, 2007, the office will be transferred to the State Department of Public Health.

This bill would authorize a public entity that receives General Fund money from the State Department of Public Health for HIV prevention and education to use that money to support clean needle and syringe exchange projects authorized by the public entity. The bill would authorize the money to be used for the purchase of sterile hypodermic needles and syringes. The bill would require funds allocated for that purpose to be based upon epidemiological data as reported by the health jurisdiction in its local HIV prevention plan submitted to the Office of AIDS.

(2) Existing law requires the health officer of the participating jurisdiction to annually present a report on the status of clean needle and syringe exchange programs, including relevant statistics on blood-borne infections.

This bill would require the report to also include the use of public funds for these purposes.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) The continuing spread of the acquired immunodeficiency
- 4 syndrome (AIDS) epidemic and the spread of blood-borne hepatitis
- 5 pose two of the gravest public health threats in California.
- 6 (b) Injection drug users are the second largest group at risk of
- 7 becoming infected with the human immunodeficiency virus (HIV)
- 8 and developing AIDS, and they have been the primary source of
- 9 heterosexual, female, and perinatal transmission in California, the
- 10 United States, and Europe.
- 11 (c) According to the Office of AIDS within the State Department
- 12 of Public Health, injection drug use continues to be one of the most
- 13 prevalent risk factors for new HIV and AIDS cases in California.
- 14 Injection drug users continue to be at high risk of HIV/AIDS and
- 15 hepatitis infection in California. According to an annual report
- 16 issued by the Office of AIDS, sharing of contaminated syringes

1 and other injection equipment is linked to 20 percent of all reported  
2 AIDS cases in the state through 2003. State data suggests that over  
3 1,500 new syringe-sharing HIV infections occur annually.  
4 According to recent studies, researchers estimate that an American  
5 infected with HIV can expect to live about 24 years, on average,  
6 and that the cost of his or her health care during this time period  
7 is more than \$600,000.

8 (d) Injection drug users are also highly likely to become infected  
9 with hepatitis as a result of hypodermic needle and syringe sharing  
10 practices.

11 (e) The Legislature has responded to the spread of HIV and  
12 hepatitis among injection drug users by adopting Assembly Bill  
13 136 (Ch. 762, Stats. 1999), that permits localities to determine  
14 whether or not to operate clean needle and syringe exchange  
15 programs. As a result of that legislation, many localities are now  
16 operating these programs.

17 (f) These programs have been shown to significantly reduce the  
18 transmission of HIV and hepatitis among injection drug users,  
19 their sexual partners, and children. Moreover, these programs have  
20 been effective in moving individuals into substance abuse treatment  
21 programs and in reducing the number of used hypodermic needles  
22 and syringes disposed of in public places, which pose a threat to  
23 public health and safety.

24 (g) The United States government prohibits the use of federal  
25 funds to support the purchase of sterile hypodermic needles and  
26 syringes by clean needle and syringe exchange programs.  
27 Moreover, the state has not heretofore permitted the use of its funds  
28 for the purchase of sterile hypodermic needles and syringes,  
29 although current state policy allows state HIV prevention and  
30 education funds to be used for costs associated with authorized  
31 clean needle and syringe exchange programs, except for the  
32 purchase of sterile hypodermic needles and syringes.

33 (h) The ability of clean needle and syringe exchange programs  
34 to purchase an adequate supply of sterile hypodermic needles and  
35 syringes is essential to California's ability to further reduce the  
36 transmission of HIV and hepatitis and to relieve the public cost  
37 for the care and treatment of HIV disease and hepatitis.

38 SEC. 2. Chapter 1.5 (commencing with Section 120780) is  
39 added to Part 4 of Division 105 of the Health and Safety Code, to  
40 read:

## 1 CHAPTER 1.5. STATE HIV PREVENTION AND EDUCATION FUNDS

2  
3 120780. A public entity that receives General Fund money  
4 from the State Department of Public Health for HIV prevention  
5 and education may use that money to support clean needle and  
6 syringe exchange projects authorized by the public entity pursuant  
7 to existing law. The money may be used for, but is not limited to,  
8 the purchase of sterile hypodermic needles and syringes. Funds  
9 allocated for the purchase of sterile hypodermic needles and  
10 syringes shall be based upon epidemiological data as reported by  
11 the health jurisdiction in its local HIV prevention plan submitted  
12 to the Office of AIDS within the department.

13 SEC. 3. Section 121349.3 of the Health and Safety Code is  
14 amended to read:

15 121349.3. The health officer of the participating jurisdiction  
16 shall present annually at an open meeting of the board of  
17 supervisors or city council a report detailing the status of clean  
18 needle and syringe exchange programs including, but not limited  
19 to, relevant statistics on blood-borne infections associated with  
20 needle sharing activity *and the use of public funds for these*  
21 *programs*. Law enforcement, administrators of alcohol and drug  
22 treatment programs, other stakeholders, and the public shall be  
23 afforded ample opportunity to comment at this annual meeting.  
24 The notice to the public shall be sufficient to assure adequate  
25 participation in the meeting by the public. This meeting shall be  
26 noticed in accordance with all state and local open meeting laws  
27 and ordinances, and as local officials deem appropriate.



**ASSEMBLY BILL**

**No. 249**

**Introduced by Assembly Member Eng**

February 1, 2007

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An act to add Section 809.10 to, and to repeal Section 2220.7 of, the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 249, as introduced, Eng. Licensees: healing arts: settlement agreements.

Existing law prohibits a physician and surgeon from including or permitting to be included specified provisions in a settlement agreement arising from his or her practice regardless of whether the agreement is made before or after filing the civil action. Under existing law, a physician and surgeon who violates this requirement is subject to disciplinary action by the Medical Board of California.

This bill would continue to impose that prohibition on physicians and surgeons and would additionally impose it on other healing arts practitioners and would also make them subject to disciplinary action.

Vote: \*majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 809.10 is added to the Business and
- 2 Professions Code, to read:
- 3 809.10. (a) No person who is licensed, certified, or registered
- 4 by a board under this division, nor an entity or person acting as an
- 5 authorized agent of that person, shall include or permit to be

1 included any of the following provisions in an agreement to settle  
2 a civil dispute, whether the agreement is made before or after the  
3 commencement of a civil action:

4 (1) A provision that prohibits the other party in that dispute  
5 from contacting or cooperating with the department or board.

6 (2) A provision that prohibits the other party in that dispute  
7 from filing a complaint with the department or board.

8 (3) A provision that requires the other party in that dispute to  
9 withdraw a complaint from the department or board. This type of  
10 provision is void as against public policy.

11 (b) A licensed, certified, or registered person who violates this  
12 section is subject to disciplinary action by the appropriate board.

13 SEC. 2. Section 2220.7 of the Business and Professions Code  
14 is repealed.

15 ~~2220.7. (a) A physician and surgeon shall not include or permit~~  
16 ~~to be included any of the following provisions in an agreement to~~  
17 ~~settle a civil dispute arising from his or her practice, whether the~~  
18 ~~agreement is made before or after filing the action:~~

19 ~~(1) A provision that prohibits another party to the dispute from~~  
20 ~~contacting or cooperating with the board.~~

21 ~~(2) A provision that prohibits another party to the dispute from~~  
22 ~~filing a complaint with the board.~~

23 ~~(3) A provision that requires another party to the dispute to~~  
24 ~~withdraw a complaint he or she has filed with the board.~~

25 ~~(b) A provision described in subdivision (a) is void as against~~  
26 ~~public policy.~~

27 ~~(c) A physician and surgeon who violates this section is subject~~  
28 ~~to disciplinary action by the board.~~

**ASSEMBLY BILL**

**No. 501**

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**Introduced by Assembly Members Swanson and Hancock**

February 20, 2007

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An act to add Section 119404 to the Health and Safety Code, relating to pharmaceutical devices.

LEGISLATIVE COUNSEL'S DIGEST

AB 501, as introduced, Swanson. Pharmaceutical devices.

The existing Medical Waste Management Act, administered by the State Department of Health Services, regulates the management and handling of medical waste, as defined. Effective July 1, 2007, these duties will be transferred to the State Department of Public Health. Under existing law, certain items, such as home-generated sharps waste, as defined, are specifically excluded from the definition of medical waste. The act also prohibits, on or after September 1, 2008, a person from knowingly placing home-generated sharps waste in certain types of containers, provides that home-generated sharps waste is to be transported only in a sharps container, as defined, or other container approved by the department or local enforcement agency, and requires this waste to only be managed at specified locations consistent with existing law.

This bill would require a pharmaceutical company whose product is dispensed through a prefilled syringe, prefilled pen needle, or other prefilled injection device to provide each person for whom the product is prescribed with a specified method for the patient to safely dispose of the syringe, pen needle, or other injection device.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. The Legislature finds and declares all of the  
2 following:

3     (a) An estimated 1 million Californians must self-inject  
4 prescription medications annually to treat a broad range of serious  
5 health problems.

6     (b) The use of prefilled syringes, pens, and devices with needles  
7 is an effective method of prescription drug delivery and is expected  
8 to increase significantly in the future.

9     (c) The increased use of prefilled syringes, pens, and devices  
10 with needles will generate millions of home-generated sharps each  
11 year. If improperly disposed in solid waste and recycling containers  
12 these needles will result in significant public health risks.

13     (d) The Legislature has found that sharps mail-back programs  
14 utilizing containers and packaging approved by the United States  
15 Postal Service offer one of the most convenient means for  
16 collecting and destroying home-generated sharps and that the  
17 cooperative efforts of the pharmaceutical industry is needed to  
18 develop a safe needle disposal system for California.

19     SEC. 2. Section 119404 is added to the Health and Safety Code,  
20 to read:

21     119404. (a) Every pharmaceutical company whose product is  
22 dispensed through a prefilled syringe, prefilled pen needle, or other  
23 prefilled injection device shall provide each person for whom the  
24 product is prescribed in this state with a method described in this  
25 section to safely dispose of the syringe, pen needle, or other  
26 injection device. If the person receives this syringe, pen needle,  
27 or other injection device as part of a patient starter kit, the  
28 pharmaceutical company shall make available to the person, at no  
29 additional charge, a postage prepaid, mail-back sharps container  
30 by including this container or a coupon for this container in the  
31 patient starter kit or by providing the person with a distribution  
32 point chosen by the pharmaceutical company. The pharmaceutical  
33 company shall also make available, at no additional charge and  
34 through an annually renewable program, postage prepaid, mail-back  
35 sharps containers to any person who uses this pharmaceutical  
36 company's product.

37     (b) For purposes of this section, the following definitions shall  
38 apply:

1 (1) "Coupon" means any written material that allows a person  
2 who uses a pharmaceutical company's product pursuant to a  
3 prescription to receive a postage prepaid, mail-back sharps  
4 container from a distribution point chosen by the pharmaceutical  
5 company.

6 (2) "Patient starter kit" means a package of educational, training,  
7 or otherwise instructional materials prepared by, or on behalf of,  
8 the pharmaceutical company to educate a person on how to safely  
9 use the pharmaceutical company's self-injectable pharmaceutical  
10 product.

11 (3) "Sharps container" has the same meaning as in Section  
12 117750.

**ASSEMBLY BILL**

**No. 543**

**Introduced by Assembly Member Plescia  
(Coauthor: Assembly Member Jones)**

February 21, 2007

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An act to amend Sections 2472 and 4190 of the Business and Professions Code, to amend Sections 1204, 1206, 1214.1, 1226, 1226.5, 1233, 1242, and 1248.1 of, and to add Section 1204.2 to, the Health and Safety Code, and to amend Section 139.3 of the Labor Code, relating to health clinics.

LEGISLATIVE COUNSEL'S DIGEST

AB 543, as introduced, Plescia. Ambulatory surgical centers: licensure.

Existing law, with certain exceptions, provides for the licensure and regulation of health facilities and clinics, including specialty clinics, by the State Department of Health Services. Existing law defines a specialty clinic to include a surgical clinic that is not part of a hospital and that provides ambulatory surgical care for patients who remain less than 24 hours. A violation of these provisions is a crime.

This bill would redesignate a surgical clinic as an ambulatory surgical center for purposes of these licensure and regulatory requirements and would make various conforming changes.

This bill would also require the department to issue or renew an ambulatory surgical center license upon submission of a specified accreditation or, if the applicant chooses to participate in the Medicare Program, a specified certification, but would exempt certain licensees from this requirement until January 1, 2013.

This bill would also permit the department to make inspections and investigations of ambulatory surgical centers, as necessary.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 2472 of the Business and Professions  
2 Code is amended to read:

3 2472. (a) The certificate to practice podiatric medicine  
4 authorizes the holder to practice podiatric medicine.

5 (b) As used in this chapter, "podiatric medicine" means the  
6 diagnosis, medical, surgical, mechanical, manipulative, and  
7 electrical treatment of the human foot, including the ankle and  
8 tendons that insert into the foot and the nonsurgical treatment of  
9 the muscles and tendons of the leg governing the functions of the  
10 foot.

11 (c) A doctor of podiatric medicine may not administer an  
12 anesthetic other than local. If an anesthetic other than local is  
13 required for any procedure, the anesthetic shall be administered  
14 by another licensed health care practitioner who is authorized to  
15 administer the required anesthetic within the scope of his or her  
16 practice.

17 (d) (1) A doctor of podiatric medicine who is ankle certified  
18 by the board on and after January 1, 1984, may do the following:

19 (A) Perform surgical treatment of the ankle and tendons at the  
20 level of the ankle pursuant to subdivision (e).

21 (B) Perform services under the direct supervision of a physician  
22 and surgeon, as an assistant at surgery, in surgical procedures that  
23 are otherwise beyond the scope of practice of a doctor of podiatric  
24 medicine.

25 (C) Perform a partial amputation of the foot no further proximal  
26 than the Chopart's joint.

27 (2) Nothing in this subdivision shall be construed to permit a  
28 doctor of podiatric medicine to function as a primary surgeon for  
29 any procedure beyond his or her scope of practice.

30 (e) A doctor of podiatric medicine may perform surgical  
31 treatment of the ankle and tendons at the level of the ankle only  
32 in the following locations:

(1) A licensed general acute care hospital, as defined in Section 1250 of the Health and Safety Code.

(2) A licensed *ambulatory surgical-~~clinic~~ center*, as defined in Section 1204 of the Health and Safety Code, if the doctor of podiatric medicine has surgical privileges, including the privilege to perform surgery on the ankle, in a general acute care hospital described in paragraph (1) and meets all the protocols of the *ambulatory surgical-~~clinic~~ center*.

(3) An ambulatory surgical center that is certified to participate in the Medicare Program under Title XVIII (42 U.S.C. Sec. 1395 et seq.) of the federal Social Security Act, if the doctor of podiatric medicine has surgical privileges, including the privilege to perform surgery on the ankle, in a general acute care hospital described in paragraph (1) and meets all the protocols of the *ambulatory surgical center*.

(4) A freestanding physical plant housing outpatient services of a licensed general acute care hospital, as defined in Section 1250 of the Health and Safety Code, if the doctor of podiatric medicine has surgical privileges, including the privilege to perform surgery on the ankle, in a general acute care hospital described in paragraph (1). For purposes of this section, a “freestanding physical plant” means any building that is not physically attached to a building where inpatient services are provided.

(5) An outpatient setting accredited pursuant to subdivision (g) of Section 1248.1 of the Health and Safety Code.

(f) A doctor of podiatric medicine shall not perform an admitting history and physical examination of a patient in an acute care hospital where doing so would violate the regulations governing the ~~Medicare-program~~ *Program*.

(g) A doctor of podiatric medicine licensed under this chapter is a licentiate for purposes of paragraph (2) of subdivision (a) of Section 805, and thus is a health care practitioner subject to the provisions of Section 2290.5 pursuant to subdivision (b) of that section.

SEC. 2. Section 4190 of the Business and Professions Code is amended to read:

4190. (a) Notwithstanding any provision of this chapter, ~~a an ambulatory surgical-~~clinic~~, as defined in center, licensed pursuant to paragraph (1) of subdivision (b) of Section 1204 of the Health and Safety Code, accredited by an accreditation agency as defined~~



1 in Section 1248 of the Health and Safety Code, or certified to  
2 participate in the Medicare Program under Title XVIII (42 U.S.C.  
3 Sec. 1395 et seq.) of the federal Social Security Act, may purchase  
4 drugs at wholesale for administration or dispensing, under the  
5 direction of a physician, to patients registered for care at the ~~clinic~~  
6 center, as provided in subdivision (b). The ~~clinic~~ center shall keep  
7 records of the kind and amounts of drugs purchased, administered,  
8 and dispensed, and the records shall be available and maintained  
9 for a minimum of three years for inspection by all properly  
10 authorized personnel.

11 (b) The drug distribution service of ~~a~~ an ambulatory surgical  
12 ~~clinic~~ center shall be limited to the use of drugs for administration  
13 to the patients of the ambulatory surgical ~~clinic~~ center and to the  
14 dispensing of drugs for the control of pain and nausea for patients  
15 of the ~~clinic~~ center. Drugs shall not be dispensed in an amount  
16 greater than that required to meet the patient's needs for 72 hours.  
17 Drugs for administration shall be those drugs directly applied,  
18 whether by injection, inhalation, ingestion, or any other means, to  
19 the body of a patient for his or her immediate needs.

20 (c) No ambulatory surgical ~~clinic~~ center shall operate without  
21 a license issued by the board nor shall it be entitled to the benefits  
22 of this section until it has obtained a license from the board. A  
23 separate license shall be required for each ~~clinic~~ center location.  
24 A ~~clinic~~ center shall notify the board of any change in the ~~clinic's~~  
25 center's address on a form furnished by the board.

26 (d) Any proposed change in ownership or beneficial interest in  
27 the licensee shall be reported to the board, on a form to be furnished  
28 by the board, at least 30 days prior to the execution of any  
29 agreement to purchase, sell, exchange, gift or otherwise transfer  
30 any ownership or beneficial interest or prior to any transfer of  
31 ownership or beneficial interest, whichever occurs earlier.

32 SEC. 3. Section 1204 of the Health and Safety Code is amended  
33 to read:

34 1204. Clinics eligible for licensure pursuant to this chapter are  
35 primary care clinics and specialty clinics.

36 (a) (1) Only the following defined classes of primary care  
37 clinics shall be eligible for licensure:

38 (A) A "community clinic" means a clinic operated by a  
39 tax-exempt nonprofit corporation that is supported and maintained  
40 in whole or in part by donations, bequests, gifts, grants, government

1 funds or contributions, that may be in the form of money, goods,  
2 or services. In a community clinic, any charges to the patient shall  
3 be based on the patient's ability to pay, utilizing a sliding fee scale.  
4 No corporation other than a nonprofit corporation, exempt from  
5 federal income taxation under paragraph (3) of subsection (c) of  
6 Section 501 of the Internal Revenue Code of 1954 as amended, or  
7 a statutory successor thereof, shall operate a community clinic;  
8 provided, that the licensee of any community clinic so licensed on  
9 the effective date of this section shall not be required to obtain  
10 tax-exempt status under either federal or state law in order to be  
11 eligible for, or as a condition of, renewal of its license. No natural  
12 person or persons shall operate a community clinic.

13 (B) A "free clinic" means a clinic operated by a tax-exempt,  
14 nonprofit corporation supported in whole or in part by voluntary  
15 donations, bequests, gifts, grants, government funds or  
16 contributions, that may be in the form of money, goods, or services.  
17 In a free clinic there shall be no charges directly to the patient for  
18 services rendered or for drugs, medicines, appliances, or  
19 apparatuses furnished. No corporation other than a nonprofit  
20 corporation exempt from federal income taxation under paragraph  
21 (3) of subsection (c) of Section 501 of the Internal Revenue Code  
22 of 1954 as amended, or a statutory successor thereof, shall operate  
23 a free clinic; provided, that the licensee of any free clinic so  
24 licensed on the effective date of this section shall not be required  
25 to obtain tax-exempt status under either federal or state law in  
26 order to be eligible for, or as a condition of, renewal of its license.  
27 No natural person or persons shall operate a free clinic.

28 (2) Nothing in this subdivision shall prohibit a community clinic  
29 or a free clinic from providing services to patients whose services  
30 are reimbursed by third-party payers, or from entering into  
31 managed care contracts for services provided to private or public  
32 health plan subscribers, as long as the clinic meets the requirements  
33 identified in subparagraphs (A) and (B). For purposes of this  
34 subdivision, any payments made to a community clinic by a  
35 third-party payer, including, but not limited to, a health care service  
36 plan, shall not constitute a charge to the patient. This paragraph is  
37 a clarification of existing law.

38 (b) The following types of specialty clinics shall be eligible for  
39 licensure as specialty clinics pursuant to this chapter:

1     (1) ~~A “surgical clinic”~~ An “ambulatory surgical center” means  
2 a clinic that is not part of a hospital and that provides ambulatory  
3 surgical care for patients who remain less than 24 hours. ~~AA~~  
4 ~~ambulatory surgical-clinic center~~ does not include any place or  
5 establishment owned or leased and operated as a clinic or office  
6 by one or more physicians or dentists in individual or group  
7 practice, regardless of the name used publicly to identify the place  
8 or establishment, provided, however, that physicians or dentists  
9 may, at their option, apply for licensure.

10     (2) A “chronic dialysis clinic” means a clinic that provides less  
11 than 24-hour care for the treatment of patients with end-stage renal  
12 disease, including renal dialysis services.

13     (3) A “rehabilitation clinic” means a clinic that, in addition to  
14 providing medical services directly, also provides physical  
15 rehabilitation services for patients who remain less than 24 hours.  
16 Rehabilitation clinics shall provide at least two of the following  
17 rehabilitation services: physical therapy, occupational therapy,  
18 social, speech pathology, and audiology services. A rehabilitation  
19 clinic does not include the offices of a private physician in  
20 individual or group practice.

21     (4) An “alternative birth center” means a clinic that is not part  
22 of a hospital and that provides comprehensive perinatal services  
23 and delivery care to pregnant women who remain less than 24  
24 hours at the facility.

25     SEC. 4. Section 1204.2 is added to the Health and Safety Code,  
26 to read:

27     1204.2. (a) Notwithstanding Section 1248, the department  
28 shall issue or renew an ambulatory surgical center license upon  
29 submission of documentation that the applicant has an accreditation  
30 by an accreditation agency, as defined in Section 1248, and, if the  
31 applicant chooses to participate in the Medicare Program, a  
32 certification to participate in the Medicare Program under Title  
33 XVIII (42 U.S.C. Sec. 1395 et seq.) of the federal Social Security  
34 Act.

35     (b) Notwithstanding subdivision (a), and until January 1, 2013,  
36 an ambulatory surgical center that has a valid, unrevoked, surgical  
37 clinic license issued prior to December 31, 2007, shall be subject  
38 to the licensure requirements for a surgical clinic in effect prior to  
39 January 1, 2008.

(c) The department may make inspections and investigations as it deems necessary to investigate complaints, follow up on adverse survey findings, or conduct periodic validation surveys.

SEC. 5. Section 1206 of the Health and Safety Code is amended to read:

1206. This chapter does not apply to the following:

(a) Except with respect to the option provided with regard to *ambulatory surgical-clinic centers described* in paragraph (1) of subdivision (b) of Section 1204 and further, with respect to ~~specialty chronic dialysis clinics specified~~ *described* in paragraph (2) of subdivision (b) of Section 1204, any place or establishment owned or leased and operated as a clinic or office by one or more licensed health care practitioners and used as an office for the practice of their profession, within the scope of their license, regardless of the name used publicly to identify the place or establishment.

(b) Any clinic directly conducted, maintained, or operated by the United States or by any of its departments, officers, or agencies, and any primary care clinic specified in subdivision (a) of Section 1204 that is directly conducted, maintained, or operated by this state or by any of its political subdivisions or districts, or by any city. Nothing in this subdivision precludes the ~~state~~ department from adopting regulations that utilize clinic licensing standards as eligibility criteria for participation in programs funded wholly or partially under Title XVIII or XIX of the federal Social Security Act.

(c) Any clinic conducted, maintained, or operated by a federally recognized Indian tribe or tribal organization, as defined in Section ~~450 450b~~ or ~~1601 1603~~ of Title 25 of the United States Code, that is located on land recognized as tribal land by the federal government.

(d) Clinics conducted, operated, or maintained as outpatient departments of hospitals.

(e) Any facility licensed as a health facility under Chapter 2 (commencing with Section 1250).

(f) Any freestanding clinical or pathological laboratory licensed under Chapter 3 (commencing with Section 1200) of Division 2 of the Business and Professions Code.

(g) A clinic operated by, or affiliated with, any institution of learning that teaches a recognized healing art and is approved by

1 the state board or commission vested with responsibility for  
2 regulation of the practice of that healing art.

3 (h) A clinic that is operated by a primary care community or  
4 free clinic and that is operated on separate premises from the  
5 licensed clinic and is only open for limited services of no more  
6 than 20 hours a week. An intermittent clinic as described in this  
7 subdivision shall, however, meet all other requirements of law,  
8 including administrative regulations and requirements, pertaining  
9 to fire and life safety.

10 (i) The offices of physicians in group practice who provide a  
11 preponderance of their services to members of a comprehensive  
12 group practice prepayment health care service plan subject to  
13 Chapter 2.2 (commencing with Section 1340).

14 (j) Student health centers operated by public institutions of  
15 higher education.

16 (k) Nonprofit speech and hearing centers, as defined in Section  
17 1201.5. Any nonprofit speech and hearing clinic desiring an  
18 exemption under this subdivision shall make application therefor  
19 to the director, who shall grant the exemption to any facility  
20 meeting the criteria of Section 1201.5. Notwithstanding the  
21 licensure exemption contained in this subdivision, a nonprofit  
22 speech and hearing center shall be deemed to be an organized  
23 outpatient clinic for purposes of qualifying for reimbursement as  
24 a rehabilitation center under the Medi-Cal Act (Chapter 7  
25 (commencing with Section 14000) of Part 3 of Division 9 of the  
26 Welfare and Institutions Code).

27 (l) A clinic operated by a nonprofit corporation exempt from  
28 federal income taxation under paragraph (3) of subsection (c) of  
29 Section 501 of the Internal Revenue Code of 1954, as amended,  
30 or a statutory successor thereof, that conducts medical research  
31 and health education and provides health care to its patients through  
32 a group of 40 or more physicians and surgeons, who are  
33 independent contractors representing not less than 10  
34 board-certified specialties, and not less than two-thirds of whom  
35 practice on a full-time basis at the clinic.

36 (m) Any clinic, limited to in vivo diagnostic services by  
37 magnetic resonance imaging functions or radiological services  
38 under the direct and immediate supervision of a physician and  
39 surgeon who is licensed to practice in California. This shall not

1 be construed to permit cardiac catheterization or any treatment  
2 modality in these clinics.

3 (n) A clinic operated by an employer or jointly by two or more  
4 employers for their employees only, or by a group of employees,  
5 or jointly by employees and employers, without profit to the  
6 operators thereof or to any other person, for the prevention and  
7 treatment of accidental injuries to, and the care of the health of,  
8 the employees comprising the group.

9 (o) A community mental health center, as defined in Section  
10 ~~5601.5~~ 5667 of the Welfare and Institutions Code.

11 (p) (1) A clinic operated by a nonprofit corporation exempt  
12 from federal income taxation under paragraph (3) of subsection  
13 (c) of Section 501 of the Internal Revenue Code of 1954, as  
14 amended, or a statutory successor thereof, as an entity organized  
15 and operated exclusively for scientific and charitable purposes and  
16 that satisfied all of the following requirements on or before January  
17 1, 2005:

18 (A) Commenced conducting medical research on or before  
19 January 1, 1982, and continues to conduct medical research.

20 (B) Conducted research in, among other areas, prostatic cancer,  
21 cardiovascular disease, electronic neural prosthetic devices,  
22 biological effects and medical uses of lasers, and human magnetic  
23 resonance imaging and spectroscopy.

24 (C) Sponsored publication of at least 200 medical research  
25 articles in peer-reviewed publications.

26 (D) Received grants and contracts from the National Institutes  
27 of Health.

28 (E) Held and licensed patents on medical technology.

29 (F) Received charitable contributions and bequests totaling at  
30 least five million dollars (\$5,000,000).

31 (G) Provides health care services to patients only:

32 (i) In conjunction with research being conducted on procedures  
33 or applications not approved or only partially approved for payment  
34 (I) under the Medicare ~~program~~ *Program* pursuant to Section ~~1359~~  
35 1395y(a)(1)(A) of Title 42 of the United States Code, or (II) by a  
36 health care service plan registered under Chapter 2.2 (commencing  
37 with Section 1340), or a disability insurer regulated under Chapter  
38 1 (commencing with Section 10110) of Part 2 of Division 2 of the  
39 Insurance Code; provided that services may be provided by the  
40 clinic for an additional period of up to three years following the

1 approvals, but only to the extent necessary to maintain clinical  
2 expertise in the procedure or application for purposes of actively  
3 providing training in the procedure or application for physicians  
4 and surgeons unrelated to the clinic.

5 (ii) Through physicians and surgeons who, in the aggregate,  
6 devote no more than 30 percent of their professional time for the  
7 entity operating the clinic, on an annual basis, to direct patient care  
8 activities for which charges for professional services are paid.

9 (H) Makes available to the public the general results of its  
10 research activities on at least an annual basis, subject to good faith  
11 protection of proprietary rights in its intellectual property.

12 (I) Is a freestanding clinic, whose operations under this  
13 subdivision are not conducted in conjunction with any affiliated  
14 or associated health clinic or facility defined under this division,  
15 except a clinic exempt from licensure under subdivision (m). For  
16 purposes of this subparagraph, a freestanding clinic is defined as  
17 “affiliated” only if it directly, or indirectly through one or more  
18 intermediaries, controls, or is controlled by, or is under common  
19 control with, a clinic or health facility defined under this division,  
20 except a clinic exempt from licensure under subdivision (m). For  
21 purposes of this subparagraph, a freestanding clinic is defined as  
22 “associated” only if more than 20 percent of the directors or trustees  
23 of the clinic are also the directors or trustees of any individual  
24 clinic or health facility defined under this division, except a clinic  
25 exempt from licensure under subdivision (m). Any activity by a  
26 clinic under this subdivision in connection with an affiliated or  
27 associated entity shall fully comply with the requirements of this  
28 subdivision. This subparagraph shall not apply to agreements  
29 between a clinic and any entity for purposes of coordinating  
30 medical research.

31 (2) By January 1, 2007, and every five years thereafter, the  
32 Legislature shall receive a report from each clinic meeting the  
33 criteria of this subdivision and any other interested party  
34 concerning the operation of the clinic’s activities. The report shall  
35 include, but not be limited to, an evaluation of how the clinic  
36 impacted competition in the relevant health care market, and a  
37 detailed description of the clinic’s research results and the level  
38 of acceptance by the payer community of the procedures performed  
39 at the clinic. The report shall also include a description of  
40 procedures performed both in clinics governed by this subdivision

1 and those performed in other settings. The cost of preparing the  
2 reports shall be borne by the clinics that are required to submit  
3 them to the Legislature pursuant to this paragraph.

4 SEC. 6. Section 1214.1 of the Health and Safety Code is  
5 amended to read:

6 1214.1. Notwithstanding the provisions of Section 1214, each  
7 application for ~~a an ambulatory surgical-clinic center~~ or a chronic  
8 dialysis clinic under this chapter for an initial license, renewal  
9 license, license upon change of ownership, or special permit shall  
10 be accompanied by an annual Licensing and Certification Program  
11 fee set in accordance with Section 1266.

12 SEC. 7. Section 1226 of the Health and Safety Code is amended  
13 to read:

14 1226. (a) The regulations shall prescribe the kinds of services  
15 which may be provided by clinics in each category of licensure  
16 and shall prescribe minimum standards of adequacy, safety, and  
17 sanitation of the physical plant and equipment, minimum standards  
18 for staffing with duly qualified personnel, and minimum standards  
19 for providing the services offered. These minimum standards shall  
20 be based on the type of facility, the needs of the patients served,  
21 and the types and levels of services provided.

22 (b) The Office of Statewide Health Planning and Development,  
23 in consultation with the Community Clinics Advisory Committee,  
24 shall prescribe minimum construction standards of adequacy and  
25 safety for the physical plant of clinics as found in the California  
26 Building Standards Code.

27 (c) A city or county, as applicable, shall have plan review and  
28 building inspection responsibilities for the construction or alteration  
29 of buildings described in paragraph (1) and paragraph (2) of  
30 subdivision (b) of Section 1204 and shall apply the provisions of  
31 the latest edition of the California Building Standards Code in  
32 conducting these plan review responsibilities. For these buildings,  
33 construction and alteration shall include conversion of a building  
34 to a purpose specified in paragraphs (1) and (2) of subdivision (b)  
35 of Section 1204.

36 Upon the initial submittal to a city or county by the governing  
37 authority or owner of these clinics for plan review and building  
38 inspection services, the city or county shall reply in writing to the  
39 clinic whether or not the plan review by the city or county will  
40 include a certification as to whether or not the clinic project



1 submitted for plan review meets the standards as propounded by  
2 the office in the California Building Standards Code.

3 If the city or county indicates that its review will include this  
4 certification it shall do all of the following:

5 (1) Apply the applicable clinic provisions of the latest edition  
6 of the California Building Standards Code.

7 (2) Certify in writing, to the applicant within 30 days of  
8 completion of construction whether or not these standards have  
9 been met.

10 (d) If upon initial submittal, the city or county indicates that its  
11 plan review will not include this certification, the governing  
12 authority or owner of the clinic shall submit the plans to the Office  
13 of Statewide Health Planning and Development ~~who~~ *which* shall  
14 review the plans for certification whether or not the clinic project  
15 meets the standards, as propounded by the office in California  
16 Building Standards Code.

17 (e) When the office performs review for certification, the office  
18 shall charge a fee in an amount that does not exceed its actual  
19 costs.

20 (f) The office of the State Fire Marshal shall prescribe minimum  
21 safety standards for fire and life safety in *ambulatory surgical*  
22 ~~clinics~~ *centers*.

23 (g) Notwithstanding subdivision (c), the governing authority or  
24 owner of a clinic may request the office to perform plan review  
25 services for buildings described in subdivision (c). If the office  
26 agrees to perform these services, after consultation with the local  
27 building official, the office shall charge an amount not to exceed  
28 its actual costs. The construction or alteration of these buildings  
29 shall conform to the applicable provisions of the latest edition of  
30 the California Building Standards Code for purposes of the plan  
31 review by the office pursuant to this subdivision.

32 (h) Regulations adopted pursuant to this chapter establishing  
33 standards for laboratory services shall not be applicable to any  
34 clinic that operates a clinical laboratory licensed pursuant to  
35 Section 1265 of the Business and Professions Code.

36 SEC. 8. Section 1226.5 of the Health and Safety Code is  
37 amended to read:

38 1226.5. (a) It is the intent of the Legislature to establish seismic  
39 safety standards for facilities licensed as *ambulatory surgical-clinics*  
40 *centers* pursuant to this chapter, and for facilities certified for

1 participation in the federal Medicare—~~program~~ *Program* as  
2 ambulatory surgical centers, which accommodate surgical patients  
3 under general anesthesia, but are not required to remain open and  
4 usable after an earthquake to accommodate emergency patients.

5 (b) A facility described in subdivision (a) which, after January  
6 1, 1991, anchors fixed medical equipment to the floor or roof of  
7 the facility with a gross operating weight of more than 400 pounds  
8 or anchors fixed medical equipment to the walls or ceiling with a  
9 gross operating weight of more than 20 pounds shall retain the  
10 services of an architect licensed in California, a structural engineer  
11 licensed in California, or a civil engineer registered in California  
12 to assure that the equipment is anchored in such a manner to meet  
13 the requirements of an occupancy importance factor of 1.00, as  
14 set forth in Title 24 of the California Code of Regulations.

15 (c) A facility described in subdivision (a) which retains the  
16 services of an architect or engineer for the anchorage of fixed  
17 medical equipment shall keep available for inspection by the  
18 department for a period of five years following the installation, a  
19 current written certification from the architect or engineer that the  
20 equipment is mounted in accordance with the applicable  
21 requirements.

22 SEC. 9. Section 1233 of the Health and Safety Code is amended  
23 to read:

24 1233. ~~A~~An ambulatory surgical—~~clinic~~ *center* may restrict use  
25 of its facilities to members of the medical staff of the *ambulatory*  
26 surgical—~~clinic~~ *center* and other physicians and surgeons approved  
27 by the medical staff to practice at the—~~clinic~~ *center*.

28 SEC. 10. Section 1242 of the Health and Safety Code is  
29 amended to read:

30 1242. The director may temporarily suspend any license issued  
31 to a specialty clinic or special permit prior to any hearing, when  
32 in his *or her* opinion—~~such~~ *this* action is necessary to protect the  
33 public welfare. The director shall notify the licensee or holder of  
34 a special permit of the temporary suspension and the effective date  
35 thereof, and at the same time shall serve such provider with an  
36 accusation. Upon receipt of a notice of defense by the licensee or  
37 holder of a special permit, the director shall set the matter for  
38 hearing within 30 days after receipt of such notice. The temporary  
39 suspension shall remain in effect until—~~such~~ *the time as* when the  
40 hearing is completed and the director has made a final

1 determination on the merits; provided, however, that the temporary  
2 suspension shall be deemed vacated if the director fails to make a  
3 final determination on the merits within 60 days after the original  
4 hearing has been completed.

5 If the provisions of this chapter or the rules or regulations  
6 promulgated by the director are violated by a licensed *ambulatory*  
7 ~~surgical-clinic~~ *center* or chronic dialysis clinic or holder of a special  
8 permit which is a group, corporation, or other association, the  
9 director may suspend the license or special permit of ~~such the~~  
10 organization or may suspend the license or special permit as to  
11 any individual person within ~~such the~~ organization who is  
12 responsible for ~~such the~~ violation.

13 SEC. 11. Section 1248.1 of the Health and Safety Code is  
14 amended to read:

15 1248.1. No association, corporation, firm, partnership, or person  
16 shall operate, manage, conduct, or maintain an outpatient setting  
17 in this state, unless the setting is one of the following:

18 (a) An ambulatory surgical center that is certified to participate  
19 in the Medicare ~~program~~ *Program* under Title XVIII (42 U.S.C.  
20 Sec. 1395 et seq.) of the federal Social Security Act.

21 (b) Any clinic conducted, maintained, or operated by a federally  
22 recognized Indian tribe or tribal organization, as defined in Section  
23 450 or 1601 of Title 25 of the United States Code, and located on  
24 land recognized as tribal land by the federal government.

25 (c) Any clinic directly conducted, maintained, or operated by  
26 the United States or by any of its departments, officers, or agencies.

27 (d) Any primary care clinic licensed under subdivision (a) ~~and~~  
28 *of Section 1204* or any *ambulatory surgical-clinic center* licensed  
29 under subdivision (b) of Section 1204.

30 (e) Any health facility licensed as a general acute care hospital  
31 under Chapter 2 (commencing with Section 1250).

32 (f) Any outpatient setting to the extent that it is used by a dentist  
33 or physician and surgeon in compliance with Article 2.7  
34 (commencing with Section 1646) or Article 2.8 (commencing with  
35 Section 1647) of Chapter 4 of Division 2 of the Business and  
36 Professions Code.

37 (g) An outpatient setting accredited by an accreditation agency  
38 approved by the division pursuant to this chapter.

39 (h) A setting, including, but not limited to, a mobile van, in  
40 which equipment is used to treat patients admitted to a facility

1 described in subdivision (a), (d), or (e), and in which the procedures  
2 performed are staffed by the medical staff of, or other ~~healthcare~~  
3 *health care* practitioners with clinical privileges at, the facility and  
4 are subject to the peer review process of the facility but which  
5 setting is not a part of a facility described in subdivision (a), (d),  
6 or (e).

7 Nothing in this section shall relieve an association, corporation,  
8 firm, partnership, or person from complying with all other  
9 provisions of law that are otherwise applicable.

10 SEC. 12. Section 139.3 of the Labor Code is amended to read:

11 139.3. (a) Notwithstanding any other provision of law, to the  
12 extent those services are paid pursuant to Division 4 (commencing  
13 with Section 3200), it is unlawful for a physician to refer a person  
14 for clinical laboratory, diagnostic nuclear medicine, radiation  
15 oncology, physical therapy, physical rehabilitation, psychometric  
16 testing, home infusion therapy, outpatient surgery, or diagnostic  
17 imaging goods or services, whether for treatment or medical-legal  
18 purposes, if the physician, or his or her immediate family, has a  
19 financial interest with the person or in the entity that receives the  
20 referral.

21 (b) For purposes of this section and Section 139.31, the  
22 following shall apply:

23 (1) "Diagnostic imaging" includes, but is not limited to, all  
24 X-ray, computed axial tomography magnetic resonance imaging,  
25 nuclear medicine, positron emission tomography, mammography,  
26 and ultrasound goods and services.

27 (2) "Immediate family" includes the spouse and children of the  
28 physician, the parents of the physician, and the spouses of the  
29 children of the physician.

30 (3) "Physician" means a physician as defined in Section 3209.3.

31 (4) A "financial interest" includes, but is not limited to, any  
32 type of ownership, interest, debt, loan, lease, compensation,  
33 remuneration, discount, rebate, refund, dividend, distribution,  
34 subsidy, or other form of direct or indirect payment, whether in  
35 money or otherwise, between a licensee and a person or entity to  
36 whom the physician refers a person for a good or service specified  
37 in subdivision (a). A financial interest also exists if there is an  
38 indirect relationship between a physician and the referral recipient,  
39 including, but not limited to, an arrangement whereby a physician  
40 has an ownership interest in any entity that leases property to the

1 referral recipient. Any financial interest transferred by a physician  
2 to, or otherwise established in, any person or entity for the purpose  
3 of avoiding the prohibition of this section shall be deemed a  
4 financial interest of the physician.

5 (5) A “physician’s office” is either of the following:

6 (A) An office of a physician in solo practice.

7 (B) An office in which the services or goods are personally  
8 provided by the physician or by employees in that office, or  
9 personally by independent contractors in that office, in accordance  
10 with other provisions of law. Employees and independent  
11 contractors shall be licensed or certified when that licensure or  
12 certification is required by law.

13 (6) The “office of a group practice” is an office or offices in  
14 which two or more physicians are legally organized as a  
15 partnership, professional corporation, or not-for-profit corporation  
16 licensed according to subdivision (a) of Section 1204 of the Health  
17 and Safety Code for which all of the following are applicable:

18 (A) Each physician who is a member of the group provides  
19 substantially the full range of services that the physician routinely  
20 provides, including medical care, consultation, diagnosis, or  
21 treatment, through the joint use of shared office space, facilities,  
22 equipment, and personnel.

23 (B) Substantially all of the services of the physicians who are  
24 members of the group are provided through the group and are  
25 billed in the name of the group and amounts so received are treated  
26 as receipts of the group, and except that in the case of  
27 multispecialty clinics, as defined in subdivision (l) of Section 1206  
28 of the Health and Safety Code, physician services are billed in the  
29 name of the multispecialty clinic and amounts so received are  
30 treated as receipts of the multispecialty clinic.

31 (C) The overhead expenses of, and the income from, the practice  
32 are distributed in accordance with methods previously determined  
33 by members of the group.

34 (7) Outpatient surgery includes both of the following:

35 (A) Any procedure performed on an outpatient basis in the  
36 operating rooms, ambulatory surgery rooms, endoscopy units,  
37 cardiac catheterization laboratories, or other sections of a  
38 freestanding ambulatory ~~surgery clinic~~ *surgical center*, whether  
39 or not licensed under paragraph (1) of subdivision (b) of Section  
40 1204 of the Health and Safety Code.

1 (B) The ambulatory surgery itself.

2 (c) (1) It is unlawful for a licensee to enter into an arrangement  
3 or scheme, such as a cross-referral arrangement, that the licensee  
4 knows, or should know, has a principal purpose of ensuring  
5 referrals by the licensee to a particular entity that, if the licensee  
6 directly made referrals to that entity, would be in violation of this  
7 section.

8 (2) It shall be unlawful for a physician to offer, deliver, receive,  
9 or accept any rebate, refund, commission, preference, patronage  
10 dividend, discount, or other consideration, whether in the form of  
11 money or otherwise, as compensation or inducement for a referred  
12 evaluation or consultation.

13 (d) No claim for payment shall be presented by an entity to any  
14 individual, third-party ~~payer~~ *payer*, or other entity for any goods  
15 or services furnished pursuant to a referral prohibited under this  
16 section.

17 (e) A physician who refers to or seeks consultation from an  
18 organization in which the physician has a financial interest shall  
19 disclose this interest to the patient or if the patient is a minor, to  
20 the patient's parents or legal guardian in writing at the time of the  
21 referral.

22 (f) No insurer, self-insurer, or other ~~payer~~ *payer* shall pay a  
23 charge or lien for any goods or services resulting from a referral  
24 in violation of this section.

25 (g) A violation of subdivision (a) shall be a misdemeanor. The  
26 appropriate licensing board shall review the facts and circumstances  
27 of any conviction pursuant to subdivision (a) and take appropriate  
28 disciplinary action if the licensee has committed unprofessional  
29 conduct. Violations of this section may also be subject to civil  
30 penalties of up to five thousand dollars (\$5,000) for each offense,  
31 which may be enforced by the Insurance Commissioner, Attorney  
32 General, or a district attorney. A violation of subdivision (c), (d),  
33 (e), or (f) is a public offense and is punishable upon conviction by  
34 a fine not exceeding fifteen thousand dollars (\$15,000) for each  
35 violation and appropriate disciplinary action, including revocation  
36 of professional licensure, by the Medical Board of California or  
37 other appropriate governmental agency.

**ASSEMBLY BILL**

**No. 851**

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**Introduced by Assembly Member Brownley**

February 22, 2007

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An act to amend Section 4074 of the Business and Professions Code, relating to pharmacy.

LEGISLATIVE COUNSEL'S DIGEST

AB 851, as introduced, Brownley. Prescription drugs: informational insert.

Existing law, the Pharmacy Law, the knowing violation of which is a crime, provides for the licensing and regulation of the practice of pharmacy by the California Board of Pharmacy, in the Department of Consumer Affairs. Existing law requires a pharmacist to inform a patient orally or in writing of the harmful effects of a drug dispensed by prescription if the drug poses substantial risk to the person consuming the drug when taken in combination with alcohol, as specified.

This bill would require a pharmacist to include a large print informational insert with any dispensed prescription that poses substantial risk when taken in combination with alcohol or other medications, warning of the risks involved, as specified. Because this bill would impose a new requirement under the Pharmacy Law, the knowing violation of which would be a crime, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 4074 of the Business and Professions  
2 Code is amended to read:

3 4074. (a) A pharmacist shall inform a patient orally or in  
4 writing of the harmful effects of a drug dispensed by prescription  
5 if the drug poses substantial risk to the person consuming the drug  
6 when taken in combination with alcohol or if the drug may impair  
7 a person's ability to drive a motor vehicle, whichever is applicable,  
8 and provided that the drug is determined by the board pursuant to  
9 subdivision (b) to be a drug or drug type for which this warning  
10 shall be given.

11 (b) A pharmacist shall include a large print informational insert  
12 with any prescription drug dispensed that poses substantial risk  
13 to the person consuming the drug when taken in combination with  
14 alcohol or other medications, including prescription drugs and  
15 over-the-counter drugs, provided that the drug is determined by  
16 the board pursuant to subdivision (c) to be a drug or drug type for  
17 which this warning is appropriate. The insert itself shall warn the  
18 patient of the specific risk involved and may not satisfy this  
19 requirement by reference to an outside source of information, such  
20 as an Internet Web site.

21 ~~(b)~~

22 (c) The board may by regulation require additional information  
23 or labeling.

24 ~~(c)~~

25 (d) This section shall not apply to drugs furnished to patients  
26 in conjunction with treatment or emergency services provided in  
27 health facilities or, except as provided in subdivision ~~(d)~~ (e), to  
28 drugs furnished to patients pursuant to subdivision (a) of Section  
29 4056.

30 ~~(d)~~

31 (e) A health facility shall establish and implement a written  
32 policy to ensure that each patient shall receive information  
33 regarding each medication given at the time of discharge and each  
34 medication given pursuant to subdivision (a) of Section 4056. This  
35 information shall include the use and storage of each medication,



1 the precautions and relevant warnings, and the importance of  
2 compliance with directions. This information shall be given by a  
3 pharmacist or registered nurse, unless already provided by a  
4 patient's prescriber, and the written policy shall be developed in  
5 collaboration with a physician, a pharmacist, and a registered nurse.  
6 The written policy shall be approved by the medical staff. Nothing  
7 in this subdivision or any other provision of law shall be construed  
8 to require that only a pharmacist provide this consultation.

9 SEC. 2. No reimbursement is required by this act pursuant to  
10 Section 6 of Article XIII B of the California Constitution because  
11 the only costs that may be incurred by a local agency or school  
12 district will be incurred because this act creates a new crime or  
13 infraction, eliminates a crime or infraction, or changes the penalty  
14 for a crime or infraction, within the meaning of Section 17556 of  
15 the Government Code, or changes the definition of a crime within  
16 the meaning of Section 6 of Article XIII B of the California  
17 Constitution.

**ASSEMBLY BILL**

**No. 865**

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**Introduced by Assembly Member Davis**

February 22, 2007

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An act to amend Section 11022 of the Government Code, relating to state agencies.

LEGISLATIVE COUNSEL'S DIGEST

AB 865, as introduced, Davis. State agencies: live customer service agents.

Existing law requires each state agency to establish a procedure whereby incoming telephone calls on any public line shall be answered within 10 rings during regular business hours, subject to certain exceptions.

This bill would require each state agency to answer an incoming call with a live customer service agent, subject to certain exceptions.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 11022 of the Government Code is  
2     amended to read:  
3     11022. Each state agency shall establish a procedure pursuant  
4     to which incoming telephone calls on any public line shall be  
5     answered *by a live customer service agent* within 10 rings during  
6     regular business hours as set forth in Section 11020, except ~~where~~  
7     ~~when~~ emergency or illness ~~require~~ *requires* adjustments to normal  
8     staffing levels. ~~This requirement shall be met in every office where~~

- 1 ~~staff is available, unless compliance would require overtime or~~
- 2 ~~compensating time off.~~

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**ASSEMBLY BILL**

**No. 1025**

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**Introduced by Assembly Member Bass**

February 22, 2007

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An act to amend Sections 480, 485, 490, and 491 of the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

AB 1025, as introduced, Bass. Professions and vocations: denial of licensure.

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law authorizes a board to deny licensure on certain bases, including an applicant's conviction of a crime regardless of whether the conviction has been dismissed on specified grounds, an applicant's performance of any act involving dishonesty, fraud, or deceit with the intent to substantially benefit himself or herself or another or to substantially injure another, or an applicant's performance of any act that would be grounds for suspension or revocation of the license. Existing law requires a board that denies an application for licensure to provide the applicant with notice of the denial, as specified. Existing law authorizes a board to suspend or revoke a license on the basis that a licensee has been convicted of a crime that is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued, regardless of whether the conviction has been dismissed on specified grounds, and requires the board to provide the ex-licensuree with certain information upon doing so.

This bill would provide that a person may not be denied licensure or have his or her license suspended or revoked based on a criminal

conviction that has been dismissed on specified grounds. The bill would also provide that an arrest more than one year old does not constitute grounds for denial of a license pursuant to the above provisions if no disposition is reported. This bill would require the board to provide an applicant or ex-licensee whose application has been denied or whose license has been suspended or revoked based upon a crime with a copy of the criminal history record information relied upon in making the determination, as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 480 of the Business and Professions Code  
2 is amended to read:  
3 480. (a) A board may deny a license regulated by this code  
4 on the grounds that the applicant has *done* one of the following:  
5 (1) Been convicted of a crime. A conviction within the meaning  
6 of this section means a plea or verdict of guilty or a conviction  
7 following a plea of nolo contendere. Any action which a board is  
8 permitted to take following the establishment of a conviction may  
9 be taken when the time for appeal has elapsed, or the judgment of  
10 conviction has been affirmed on appeal, or when an order granting  
11 probation is made suspending the imposition of sentence;  
12 ~~irrespective of a subsequent order under the provisions of Section~~  
13 ~~1203.4 of the Penal Code.~~  
14 (2) Done any act involving dishonesty, fraud or deceit with the  
15 intent to substantially benefit himself or another, or substantially  
16 injure another; or  
17 (3) Done any act which if done by a licensee of the business  
18 or profession in question, would be grounds for suspension or  
19 revocation of license.  
20 The board may deny a license pursuant to this subdivision only  
21 if the crime or act is substantially related to the qualifications,  
22 functions or duties of the business or profession for which  
23 application is made.  
24 (b) Notwithstanding any other provision of this code, no person  
25 shall be denied a license solely on the basis that he *or she* has been  
26 convicted of a felony if he *or she* has obtained a certificate of  
27 rehabilitation under Section 4852.01 and following of the Penal

1 Code or that he *or she* has been convicted of a misdemeanor if he  
2 *or she* has met all applicable requirements of the criteria of  
3 rehabilitation developed by the board to evaluate the rehabilitation  
4 of a person when considering the denial of a license under  
5 subdivision (a) of Section 482. *In addition, no person shall be*  
6 *denied a license based on any criminal conviction that has been*  
7 *dismissed pursuant to Section 1203.4 or 1203.4a of the Penal*  
8 *Code.*

9 (c) A board may deny a license regulated by this code on the  
10 ground that the applicant knowingly made a false statement of fact  
11 required to be revealed in the application for such license.

12 (d) *For purposes of this section, the term "act" does not include*  
13 *arrests more than one year old if no disposition is reported.*

14 SEC. 2. Section 485 of the Business and Professions Code is  
15 amended to read:

16 485. Upon denial of an application for a license under this  
17 chapter or Section 496, the board shall do either of the following:

18 (a) File and serve a statement of issues in accordance with  
19 Chapter 5 (commencing with Section 11500) of Part 1 of Division  
20 3 of Title 2 of the Government Code.

21 (b) Notify the applicant that the application is denied, stating  
22 (1) the reason for the denial, and (2) that the applicant has the  
23 right to a hearing under Chapter 5 (commencing with Section  
24 11500) of Part 1 of Division 3 of Title 2 of the Government Code  
25 if written request for hearing is made within 60 days after service  
26 of the notice of denial. Unless written request for hearing is made  
27 within the 60-day period, the applicant's right to a hearing is  
28 deemed waived.

29 Service of the notice of denial may be made in the manner  
30 authorized for service of summons in civil actions, or by registered  
31 mail addressed to the applicant at the latest address filed by the  
32 applicant in writing with the board in his or her application or  
33 otherwise. Service by mail is complete on the date of mailing.

34 *If the denial of a license is due at least in part to the individual's*  
35 *state or federal criminal history record, the board shall include*  
36 *with the notice of denial a copy of the criminal history record*  
37 *relied upon in making the denial determination. The state or federal*  
38 *criminal history record shall not be modified or altered from its*  
39 *form or content as provided by the Department of Justice, and*  
40 *shall be sent to the address specified by the individual in his or*

1 *her application. The criminal history record shall be provided in*  
2 *such a manner as to protect the confidentiality and privacy of the*  
3 *individual's record, and the criminal history information shall not*  
4 *be made available by the board to any employer.*

5 SEC. 3. Section 490 of the Business and Professions Code is  
6 amended to read:

7 490. A board may suspend or revoke a license on the ground  
8 that the licensee has been convicted of a crime, if the crime is  
9 substantially related to the qualifications, functions, or duties of  
10 the business or profession for which the license was issued. A  
11 conviction within the meaning of this section means a plea or  
12 verdict of guilty or a conviction following a plea of nolo  
13 contendere. Any action which a board is permitted to take  
14 following the establishment of a conviction may be taken when  
15 the time for appeal has elapsed, or the judgment of conviction has  
16 been affirmed on appeal, or when an order granting probation is  
17 made suspending the imposition of sentence, ~~irrespective of a~~  
18 ~~subsequent order under the provisions of Section 1203.4 of the~~  
19 ~~Penal Code. No license shall be suspended or revoked based on~~  
20 ~~any criminal conviction that has been dismissed pursuant to Section~~  
21 ~~1203.4 or 1203.4a of the Penal Code.~~

22 SEC. 4. Section 491 of the Business and Professions Code is  
23 amended to read:

24 491. Upon suspension or revocation of a license by a board on  
25 one or more of the grounds specified in Section 490, the board  
26 shall *do all of the following*:

27 (a) Send a copy of the provisions of Section 11522 of the  
28 Government Code to the ex-licensee.

29 (b) Send a copy of the criteria relating to rehabilitation  
30 formulated under Section 482 to the ex-licensee.

31 (c) *Send a copy of the criminal history record relied upon in*  
32 *making the determination to suspend or revoke the license to the*  
33 *ex-licensee. The state or federal criminal history record*  
34 *information shall not be modified or altered from its form or*  
35 *content as provided by the Department of Justice, and shall be*  
36 *provided to the board's address of record of the ex-licensee. The*  
37 *criminal history record shall be provided in such a manner as to*  
38 *protect the confidentiality and privacy of the individual's record,*

- 1 *and the criminal history information shall not be made available*
- 2 *by the board to any employer.*

O



**ASSEMBLY BILL**

**No. 1276**

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**Introduced by Assembly Member Karnette**

February 23, 2007

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An act to amend Section 4076 of, and to add Section 4079 to, the Business and Professions Code, relating to pharmacies.

LEGISLATIVE COUNSEL'S DIGEST

AB 1276, as introduced, Karnette. Pharmacies: prescription containers: labels.

Existing law, the Pharmacy Law, makes the California State Board of Pharmacy responsible for the regulation of the practice of pharmacy. Existing law generally makes it a misdemeanor to knowingly violate the Pharmacy Law.

The Pharmacy Law prohibits a pharmacist from dispensing a prescription except in a container that meets the requirements of state and federal law and is correctly labeled with, among other things, the condition for which the drug was prescribed if requested by the patient and if the condition is indicated on the prescription.

This bill would eliminate the labeling requirement pertaining to the condition for which the drug was prescribed, and would instead require the container to be labeled with the intended purpose, as defined, of the drug if indicated on the prescription. The bill would, except for veterinarians, require a person who is authorized to write or issue a prescription to ask the patient or his or her authorized representative whether to indicate the intended purpose of the prescription on the prescription's label.

Because the bill would specify additional requirements under the Pharmacy Law, the violation of which would be a crime, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 4076 of the Business and Professions  
2 Code is amended to read:

3 4076. (a) A pharmacist shall not dispense any prescription  
4 except in a container that meets the requirements of state and  
5 federal law and is correctly labeled with all of the following:

6 (1) Except where the prescriber or the certified nurse-midwife  
7 who functions pursuant to a standardized procedure or protocol  
8 described in Section 2746.51, the nurse practitioner who functions  
9 pursuant to a standardized procedure described in Section 2836.1,  
10 or protocol, the physician assistant who functions pursuant to  
11 Section 3502.1, the naturopathic doctor who functions pursuant  
12 to a standardized procedure or protocol described in Section  
13 3640.5, or the pharmacist who functions pursuant to a policy,  
14 procedure, or protocol pursuant to either ~~subparagraph (D) of~~  
15 ~~paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph~~  
16 ~~(5) of, subdivision (a) of Section 4052 paragraph (4) of subdivision~~  
17 ~~(a) of Section 4052.1 or paragraph (4) of subdivision (a) of Section~~  
18 4052.2 orders otherwise, either the manufacturer's trade name of  
19 the drug or the generic name and the name of the manufacturer.  
20 Commonly used abbreviations may be used. Preparations  
21 containing two or more active ingredients may be identified by  
22 the manufacturer's trade name or the commonly used name or the  
23 principal active ingredients.

24 (2) The directions for the use of the drug.

25 (3) The name of the patient or patients.

26 (4) The name of the prescriber or, if applicable, the name of the  
27 certified nurse-midwife who functions pursuant to a standardized

1 procedure or protocol described in Section 2746.51, the nurse  
2 practitioner who functions pursuant to a standardized procedure  
3 described in Section 2836.1, or protocol, the physician assistant  
4 who functions pursuant to Section 3502.1, the naturopathic doctor  
5 who functions pursuant to a standardized procedure or protocol  
6 described in Section 3640.5, or the pharmacist who functions  
7 pursuant to a policy, procedure, or protocol pursuant to either  
8 ~~subparagraph (D) of paragraph (4) of, or clause (iv) of~~  
9 ~~subparagraph (A) of paragraph (5) of, subdivision (a) of Section~~  
10 ~~4052 paragraph (4) of subdivision (a) of Section 4052.1 or~~  
11 ~~paragraph (4) of subdivision (a) of Section 4052.2.~~

12 (5) The date of issue.

13 (6) The name and address of the pharmacy, and prescription  
14 number or other means of identifying the prescription.

15 (7) The strength of the drug or drugs dispensed.

16 (8) The quantity of the drug or drugs dispensed.

17 (9) The expiration date of the effectiveness of the drug  
18 dispensed.

19 (10) ~~The condition for which intended purpose of the drug was~~  
20 ~~prescribed if requested by the patient and the condition is or drugs,~~  
21 ~~if indicated on the prescription. As used in this section, "purpose"~~  
22 ~~means a concise description of the symptom or symptoms that the~~  
23 ~~drug is, or the drugs are, intended to treat.~~

24 (11) (A) Commencing January 1, 2006, the physical description  
25 of the dispensed medication, including its color, shape, and any  
26 identification code that appears on the tablets or capsules, except  
27 as follows:

28 (i) Prescriptions dispensed by a veterinarian.

29 (ii) An exemption from the requirements of this paragraph shall  
30 be granted to a new drug for the first 120 days that the drug is on  
31 the market and for the 90 days during which the national reference  
32 file has no description on file.

33 (iii) Dispensed medications for which no physical description  
34 exists in any commercially available database.

35 (B) This paragraph applies to outpatient pharmacies only.

36 (C) The information required by this paragraph may be printed  
37 on an auxiliary label that is affixed to the prescription container.

38 (D) This paragraph shall not become operative if the board,  
39 prior to January 1, 2006, adopts regulations that mandate the same  
40 labeling requirements set forth in this paragraph.

(b) If a pharmacist dispenses a prescribed drug by means of a unit dose medication system, as defined by administrative regulation, for a patient in a skilled nursing, intermediate care, or other health care facility, the requirements of this section will be satisfied if the unit dose medication system contains the aforementioned information or the information is otherwise readily available at the time of drug administration.

(c) If a pharmacist dispenses a dangerous drug or device in a facility licensed pursuant to Section 1250 of the Health and Safety Code, it is not necessary to include on individual unit dose containers for a specific patient, the name of the certified nurse-midwife who functions pursuant to a standardized procedure or protocol described in Section 2746.51, the nurse practitioner who functions pursuant to a standardized procedure described in Section 2836.1, or protocol, the physician assistant who functions pursuant to Section 3502.1, the naturopathic doctor who functions pursuant to a standardized procedure or protocol described in Section 3640.5, or the pharmacist who functions pursuant to a policy, procedure, or protocol pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052 *paragraph (4) of subdivision (a) of Section 4052.1 or paragraph (4) of subdivision (a) of Section 4052.2.*

(d) If a pharmacist dispenses a prescription drug for use in a facility licensed pursuant to ~~Section 1250~~ *Chapter 2 (commencing with Section 1250) of Division 2* of the Health and Safety Code, it is not necessary to include the information required in paragraph (11) of subdivision (a) when the prescription drug is administered to a patient by a person licensed under the Medical Practice Act (Chapter 5 (commencing with Section 2000)), the Nursing Practice Act (Chapter 6 (commencing with Section 2700)), or the Vocational Nursing Practice Act (Chapter 6.5 (commencing with Section 2840)), who is acting within his or her scope of practice.

SEC. 2. Section 4079 is added to the Business and Professions Code, to read:

4079. A person described in paragraph (2) of subdivision (a) of Section 4040 shall ask the patient, or the patient's authorized representative if the patient is either incapacitated or a minor who cannot provide informed consent, whether to indicate the intended

1 purpose of the prescription on the prescription's label. This section  
2 does not apply to prescriptions dispensed by veterinarians.  
3 SEC. 3. No reimbursement is required by this act pursuant to  
4 Section 6 of Article XIII B of the California Constitution because  
5 the only costs that may be incurred by a local agency or school  
6 district will be incurred because this act creates a new crime or  
7 infraction, eliminates a crime or infraction, or changes the penalty  
8 for a crime or infraction, within the meaning of Section 17556 of  
9 the Government Code, or changes the definition of a crime within  
10 the meaning of Section 6 of Article XIII B of the California  
11 Constitution.

**ASSEMBLY BILL**

**No. 1399**

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**Introduced by Assembly Member Richardson**

February 23, 2007

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An act to add Section 4076.5 to the Business and Professions Code, relating to pharmacies.

LEGISLATIVE COUNSEL'S DIGEST

AB 1399, as introduced, Richardson. Pharmacies: prescription labels.

The existing Pharmacy Law provides for the licensing and regulation of the practice of pharmacy by the California State Board of Pharmacy. Existing law generally makes it a crime to knowingly violate the Pharmacy Law. The Pharmacy Law prohibits a pharmacist from dispensing a prescription except in a container that meets the requirements of state and federal law and is correctly labeled with specified information, including directions for use of the drug.

This bill would also require a prescription drug label, upon request of a blind or visually impaired customer, to be readable by an assistive technology device for the blind or visually impaired. Because this bill would impose a new requirement under the Pharmacy Law, the knowing violation of which would be a crime, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 4076.5 is added to the Business and  
2     Professions Code, to read:  
3     4076.5. Upon the request of a customer who is blind or visually  
4     impaired, a pharmacist shall provide a prescription drug label that  
5     is readable by an assistive technology device for the blind or  
6     visually impaired.  
7     SEC. 2. No reimbursement is required by this act pursuant to  
8     Section 6 of Article XIII B of the California Constitution because  
9     the only costs that may be incurred by a local agency or school  
10    district will be incurred because this act creates a new crime or  
11    infraction, eliminates a crime or infraction, or changes the penalty  
12    for a crime or infraction, within the meaning of Section 17556 of  
13    the Government Code, or changes the definition of a crime within  
14    the meaning of Section 6 of Article XIII B of the California  
15    Constitution.

**ASSEMBLY BILL**

**No. 1587**

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**Introduced by Assembly Member De La Torre**

February 23, 2007

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An act to amend Section 56.05 of the Civil Code, relating to personal information.

LEGISLATIVE COUNSEL'S DIGEST

AB 1587, as introduced, De La Torre. Personal information: pharmacy.

The Confidentiality of Medical Information Act prohibits a provider of health care, a health care service plan, contractor, or corporation and its subsidiaries and affiliates from intentionally sharing, selling, using for marketing, or otherwise using any medical information, as defined, for any purpose not necessary to provide health care services to a patient, unless a specified exception applies. That law excludes from the definition of marketing communications that are for a specified descriptive purpose, that are tailored to the circumstances of a particular individual, or for which the communicator does not receive remuneration from a 3rd party, as specified.

This bill would additionally exclude from the definition of marketing a written communication or message provided to a pharmacy patient by a pharmacist or pharmacy personnel, as specified.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.



*The people of the State of California do enact as follows:*

1     SECTION 1. Section 56.05 of the Civil Code is amended to  
2 read:

3     56.05. For purposes of this part:

4     (a) "Authorization" means permission granted in accordance  
5 with Section 56.11 or 56.21 for the disclosure of medical  
6 information.

7     (b) "Authorized recipient" means any person who is authorized  
8 to receive medical information pursuant to Section 56.10 or 56.20.

9     (c) "Contractor" means any person or entity that is a medical  
10 group, independent practice association, pharmaceutical benefits  
11 manager, or a medical service organization and is not a health care  
12 service plan or provider of health care. "Contractor" does not  
13 include insurance institutions as defined in subdivision (k) of  
14 Section 791.02 of the Insurance Code or pharmaceutical benefits  
15 managers licensed pursuant to the Knox-Keene Health Care Service  
16 Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340)  
17 of Division 2 of the Health and Safety Code).

18     (d) "Health care service plan" means any entity regulated  
19 pursuant to the Knox-Keene Health Care Service Plan Act of 1975  
20 (Chapter 2.2 (commencing with Section 1340) of Division 2 of  
21 the Health and Safety Code).

22     (e) "Licensed health care professional" means any person  
23 licensed or certified pursuant to Division 2 (commencing with  
24 Section 500) of the Business and Professions Code, the Osteopathic  
25 Initiative Act or the Chiropractic Initiative Act, or Division 2.5  
26 (commencing with Section 1797) of the Health and Safety Code.

27     (f) "Marketing" means to make a communication about a  
28 product or service that encourages recipients of the communication  
29 to purchase or use the product or service.

30     "Marketing" does not include any of the following:

31     (1) Communications made orally or in writing for which the  
32 communicator does not receive direct or indirect remuneration,  
33 including, but not limited to, gifts, fees, payments, subsidies, or  
34 other economic benefits, from a third party for making the  
35 communication.

36     (2) Communications made to current enrollees solely for the  
37 purpose of describing a provider's participation in an existing  
38 health care provider network or health plan network of a

1 Knox-Keene licensed health plan to which the enrollees already  
2 subscribe; communications made to current enrollees solely for  
3 the purpose of describing if, and the extent to which, a product or  
4 service, or payment for a product or service, is provided by a  
5 provider, contractor, or plan or included in a plan of benefits of a  
6 Knox-Keene licensed health plan to which the enrollees already  
7 subscribe; or communications made to plan enrollees describing  
8 the availability of more cost-effective pharmaceuticals.

9 (3) Communications that are tailored to the circumstances of a  
10 particular individual to educate or advise the individual about  
11 treatment options, and otherwise maintain the individual's  
12 adherence to a prescribed course of medical treatment, as provided  
13 in Section 1399.901 of the Health and Safety Code, for a chronic  
14 and seriously debilitating or life-threatening condition as defined  
15 in subdivisions (d) and (e) of Section 1367.21 of the Health and  
16 Safety Code, if the health care provider, contractor, or health plan  
17 receives direct or indirect remuneration, including, but not limited  
18 to, gifts, fees, payments, subsidies, or other economic benefits,  
19 from a third party for making the communication, if all of the  
20 following apply:

21 (A) The individual receiving the communication is notified in  
22 the communication in typeface no smaller than 14-point type of  
23 the fact that the provider, contractor, or health plan has been  
24 remunerated and the source of the remuneration.

25 (B) The individual is provided the opportunity to opt out of  
26 receiving future remunerated communications.

27 (C) The communication contains instructions in typeface no  
28 smaller than 14-point type describing how the individual can opt  
29 out of receiving further communications by calling a toll-free  
30 number of the health care provider, contractor, or health plan  
31 making the remunerated communications. No further  
32 communication may be made to an individual who has opted out  
33 after 30 calendar days from the date the individual makes the opt  
34 out request.

35 (4) *A written communication or message provided to a pharmacy*  
36 *patient during a face-to-face interaction with a pharmacist or*  
37 *pharmacy personnel, in conjunction with dispensing a prescription*  
38 *drug, if all of the following apply:*

1 (A) The communication does not involve the sale or transfer of  
2 individually identifiable patient information by the pharmacy to  
3 any other entity.

4 (B) The communication, either in whole or in part, assists the  
5 pharmacist or pharmacy personnel in meeting the goals of Section  
6 601 of Public Law 104-180 with respect to the transmittal of useful  
7 information regarding a prescription drug dispensed to the patient.

8 (C) The content of the communication provides information  
9 regarding any of the following:

10 (i) The dispensed drug or a disease or health condition for which  
11 the dispensed drug is indicated.

12 (ii) Another treatment or therapy for a disease or health  
13 condition for which the dispensed drug is indicated if that treatment  
14 or therapy has demonstrable benefits, including being less  
15 expensive, being more effective, having fewer or less serious side  
16 effects, or offering more convenient dosing than the dispensed  
17 drug.

18 (iii) A drug dispensed to the patient during the preceding three  
19 years or a disease or health condition for which that drug is  
20 indicated.

21 (iv) General information about a health condition for which the  
22 patient's disease or health condition puts the patient at risk and  
23 that, if left untreated, may result in worsening of the health,  
24 symptoms, or daily functioning of the patient.

25 (v) General information about a health condition for which the  
26 patient may be at risk given the age or gender of the patient and  
27 that, if left untreated, may result in worsening of the health,  
28 symptoms, or daily functioning of the patient.

29 (vi) The information described in clauses (iii) to (v), inclusive,  
30 shall not include any mention, by the proprietary name, brand  
31 name, or generic name, of a specific drug or other product,  
32 treatment, therapy, or service, other than the dispensed drug or a  
33 drug dispensed to the patient during the preceding three years.

34 (D) The pharmacist is available upon request of the patient to  
35 answer questions regarding the communication and the  
36 communication notifies the patient that he or she should consult  
37 a health care provider.

38 (E) If the communication is paid for, in whole or in part, by a  
39 manufacturer, distributor, or provider of a health care product or  
40 service, other than the pharmacy or a business associate of the

1 pharmacy, the communication shall comply with all of the  
2 following:

3 (i) The communication shall, in a clear written statement placed  
4 in a clear and conspicuous location, disclose the source of the  
5 sponsorship in a typeface no smaller than 14-point type.

6 (ii) If the communication is related to information referenced  
7 in clause (i) or (ii) of subparagraph (C) and mentions a  
8 prescription drug or other product, treatment, therapy, or service,  
9 other than the dispensed prescription drug, by its proprietary  
10 name, brand name, or generic name, the communication shall also  
11 contain the words "paid advertisement" in a typeface no smaller  
12 than 14-point type at the top of each sponsored message.

13 (iii) If any part of the sponsored message is printed on a page  
14 that is not contiguous with the page that bears the statement  
15 required by clause (ii), the part of the message on the  
16 noncontiguous page shall also contain the statement described in  
17 clause (ii).

18 (F) The communication contains instructions in a typeface no  
19 smaller than 14-point type describing how the patient can opt out  
20 of the portion of the communication that is paid for by a  
21 manufacturer, distributor, or provider of a health care product or  
22 service by calling a toll-free number. No further sponsored message  
23 may be made to an individual who has opted out after 30 calendar  
24 days from the date the individual makes the opt out request.

25 (g) "Medical information" means any individually identifiable  
26 information, in electronic or physical form, in possession of or  
27 derived from a provider of health care, health care service plan,  
28 pharmaceutical company, or contractor regarding a patient's  
29 medical history, mental or physical condition, or treatment.  
30 "Individually identifiable" means that the medical information  
31 includes or contains any element of personal identifying  
32 information sufficient to allow identification of the individual,  
33 such as the patient's name, address, electronic mail address,  
34 telephone number, or social security number, or other information  
35 that, alone or in combination with other publicly available  
36 information, reveals the individual's identity.

37 (h) "Patient" means any natural person, whether or not still  
38 living, who received health care services from a provider of health  
39 care and to whom medical information pertains.

1 (i) "Pharmaceutical company" means any company or business,  
2 or an agent or representative thereof, that manufactures, sells, or  
3 distributes pharmaceuticals, medications, or prescription drugs.  
4 "Pharmaceutical company" does not include a pharmaceutical  
5 benefits manager, as included in subdivision (c), or a provider of  
6 health care.  
7 (j) "Provider of health care" means any person licensed or  
8 certified pursuant to Division 2 (commencing with Section 500)  
9 of the Business and Professions Code; any person licensed pursuant  
10 to the Osteopathic Initiative Act or the Chiropractic Initiative Act;  
11 any person certified pursuant to Division 2.5 (commencing with  
12 Section 1797) of the Health and Safety Code; any clinic, health  
13 dispensary, or health facility licensed pursuant to Division 2  
14 (commencing with Section 1200) of the Health and Safety Code.  
15 "Provider of health care" does not include insurance institutions  
16 as defined in subdivision (k) of Section 791.02 of the Insurance  
17 Code.

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**Introduced by Senator Corbett**

February 21, 2007

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An act relating to pharmacy.

LEGISLATIVE COUNSEL'S DIGEST

SB 472, as introduced, Corbett. Prescription drugs: labeling requirements.

Existing law, the Pharmacy Law, provides for the licensing and regulation of the practice of pharmacy by the California State Board of Pharmacy in the Department of Consumer Affairs. Existing law prohibits a pharmacist from dispensing a prescription except in a container that meets certain labeling requirements.

This bill would declare the intent of the Legislature to adopt a standard format for the labeling of prescription drug containers dispensed in the state, that would include regulations for the font size of printed words on the label and the placement of information of the prescription and would provide that translated prescription drug labels should be made available to the patient if the patient's primary language is not English.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. The Legislature hereby finds and declares all of
- 2 the following:
- 3 (a) Health care costs and spending in California are rising
- 4 dramatically and are expected to continue to increase.

1 (b) In California, prescription drug spending totaled over \$188  
2 billion in 2004, a \$14 billion dollar per year spending increase  
3 since 1984.

4 (c) Prescription drug cost continues to be among the most  
5 significant cost factors in California's overall spending on health  
6 care.

7 (d) According to the Institution of Medicine of the National  
8 Academies, medication errors are among the most common medical  
9 errors, harming at least 1.5 million people every year.

10 (e) Up to one-half of all medications are taken incorrectly or  
11 mixed with other medications that cause dangerous reactions that  
12 can lead to injury and death.

13 (f) Approximately 46 percent of American adults cannot  
14 understand the label on their prescription medications.

15 (g) Ninety percent of Medicare patients take medications for  
16 chronic conditions and nearly one-half of them take five or more  
17 different medications.

18 (h) It is the intention of the Legislature to adopt a standard  
19 format for the labeling of prescription drug containers dispensed  
20 in the state. That would include regulations for the font size of  
21 printed words on the label and the placement of information of the  
22 prescription and would provide that translated prescription drug  
23 labels should be made available to the patient if the patient's  
24 primary language is not English.

**Introduced by Senator Oropeza**

February 22, 2007

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An act to add Section 4410 to the Business and Professions Code, and to add Article 3 (commencing with Section 128199) to Chapter 3 of Part 3 of Division 107 of the Health and Safety Code, relating to pharmacy technicians.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 615, as introduced, Oropeza. Pharmacy technicians: scholarship and loan repayment program.

(1) Existing law provides for the licensure and regulation of pharmacy technicians by the California State Board of Pharmacy. Existing law authorizes the imposition of a biennial license renewal fee upon pharmacy technicians.

This bill would authorize a pharmacy technician to make a \$10 contribution at the time of renewing a license, to be deposited in the California Pharmacy Technician Scholarship and Loan Repayment Program Fund.

(2) Existing law establishes in the Office of Statewide Health Planning and Development the California Pharmacist Scholarship and Loan Repayment Program to provide scholarships to pay for the educational expenses of pharmacy students and to repay qualifying educational loans of pharmacists who agree to serve in areas of the state where unmet priority needs exist, as specified. Existing law requires the office to administer the program utilizing the same general guidelines applicable to specified federal programs, with the exception that no matching funds shall be required from any entity in the practice site area.



This bill would establish the California Pharmacy Technician Scholarship and Loan Repayment Program to provide scholarships to pay for the educational expenses of pharmacy technician students and to repay qualifying educational loans of pharmacy technicians who agree to serve in areas of the state where unmet priority needs exist, as specified. The bill would require the office to administer this program in the same manner as the program for pharmacists, including that no matching funds shall be required from any entity in the practice site area.

(3) Existing law establishes the California Pharmacist Scholarship and Loan Repayment Program Fund in the State Treasury, and requires that the moneys in the fund be available for expenditure, upon appropriation by the Legislature, for purposes of implementing the program. Existing law provides that the program shall be implemented only to the extent that sufficient moneys are available in the fund.

This bill would establish the California Pharmacy Technician Scholarship and Loan Repayment Program Fund, under the same terms and conditions, for purposes of implementing the program established by the bill.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 4410 is added to the Business and  
2 Professions Code, to read:  
3 4410. At the time a pharmacy technician license is renewed  
4 pursuant to subdivision (r) of Section 4400, the pharmacy  
5 technician may make a contribution of ten dollars (\$10), to be  
6 submitted to the board, for the sole purpose of funding the  
7 California Pharmacy Technician Scholarship and Loan Repayment  
8 Program established pursuant to Article 3 (commencing with  
9 Section 128199) of Chapter 3 of Part 3 of Division 107 of the  
10 Health and Safety Code. The contribution submitted pursuant to  
11 this section shall be paid into the State Treasury and credited to  
12 the California Pharmacy Technician Scholarship and Loan  
13 Repayment Program Fund established pursuant to Section 128199.5  
14 of the Health and Safety Code.

1 SEC. 2. Article 3 (commencing with Section 128199) is added  
2 to Chapter 3 of Part 3 of Division 107 of the Health and Safety  
3 Code, to read:

4  
5 Article 3. California Pharmacy Technician Scholarship and  
6 Loan Repayment Program  
7

8 128199. (a) (1) There is hereby established in the Office of  
9 Statewide Health Planning and Development the California  
10 Pharmacy Technician Scholarship and Loan Repayment Program.

11 (2) The program shall provide scholarships to pay for the  
12 educational expenses of pharmacy technician school students and  
13 to repay qualifying educational loans of pharmacy technicians who  
14 agree to participate in designated medically underserved areas as  
15 provided in this section.

16 (b) The Office of Statewide Health Planning and Development  
17 shall administer the California Pharmacy Technician Scholarship  
18 and Loan Repayment Program utilizing the same general guidelines  
19 applicable to the federal National Health Service Corps Scholarship  
20 Program established pursuant to Section 254 l of Title 42 of the  
21 United States Code and the National Health Service Corps Loan  
22 Repayment Program established pursuant to Section 254 l-1 of  
23 Title 42 of the United States Code, except as follows:

24 (1) A pharmacy technician or pharmacy technician student shall  
25 be eligible to participate in the program if he or she agrees to  
26 provide pharmacy technician services in a practice site located in  
27 areas of the state where unmet priority needs for primary care  
28 family physicians exist as determined by the Health Workforce  
29 Policy Commission.

30 (2) No matching funds shall be required from any entity in the  
31 practice site area.

32 (c) This section shall be implemented only to the extent that  
33 sufficient moneys are available in the California Pharmacy  
34 Technician Scholarship and Loan Repayment Program Fund to  
35 administer the program.

36 128199.5. The California Pharmacy Technician Scholarship  
37 and Loan Repayment Program Fund is hereby established in the  
38 State Treasury. Revenues from the contributions made pursuant  
39 to Section 4410 of the Business and Professions Code, as well as  
40 any other private or public funds made available for purposes of

1 the California Pharmacy Technician Scholarship and Loan  
2 Repayment Program, shall be deposited into the fund. Upon  
3 appropriation by the Legislature, moneys in the fund shall be  
4 available for expenditure by the Office of Statewide Health  
5 Planning and Development for purposes of implementing the  
6 California Pharmacy Technician Scholarship and Loan Repayment  
7 Program pursuant to this article. The Office of Statewide Health  
8 Planning and Development shall be under no obligation to  
9 administer a program under this article until sufficient moneys  
10 have been accumulated in the fund and appropriated to the office  
11 by the Legislature.

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**Introduced by Senator Ridley-Thomas**

February 23, 2007

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An act to amend Sections 4001 and 4003 of, and to repeal Section 101.1 of, the Business and Professions Code, relating to regulatory boards.

LEGISLATIVE COUNSEL'S DIGEST

SB 963, as introduced, Ridley-Thomas. Regulatory boards: termination.

Existing law creates the Department of Consumer Affairs within the State and Consumer Services Agency. Under existing law, the department consists of boards that license and regulate members of various professions and vocations. Existing law provides for the boards to become inoperative on a specified date unless that date is extended or deleted by the Legislature. Under existing law, when a board becomes inoperative, the department succeeds to and is vested with all the duties, powers, purposes, responsibilities and jurisdiction of the board and its executive officer that are not otherwise repealed or made inoperative.

This bill would delete that provision that requires the department to succeed to the duties, powers, purposes, responsibilities, and jurisdiction of an inoperative board.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 101.1 of the Business and Professions
- 2 Code is repealed.

1 ~~101.1. (a) It is the intent of the Legislature that all existing~~  
2 ~~and proposed consumer-related boards or categories of licensed~~  
3 ~~professionals be subject to a review every four years to evaluate~~  
4 ~~and determine whether each board has demonstrated a public need~~  
5 ~~for the continued existence of that board in accordance with~~  
6 ~~enumerated factors and standards as set forth in Division 1.2~~  
7 ~~(commencing with Section 473).~~

8 ~~(b) (1) In the event that any board, as defined in Section 477,~~  
9 ~~becomes inoperative or is repealed in accordance with the act that~~  
10 ~~added this section, or by subsequent acts, the Department of~~  
11 ~~Consumer Affairs shall succeed to and is vested with all the duties,~~  
12 ~~powers, purposes, responsibilities and jurisdiction not otherwise~~  
13 ~~repealed or made inoperative of that board and its executive officer.~~

14 ~~(2) Any provision of existing law that provides for the~~  
15 ~~appointment of board members and specifies the qualifications~~  
16 ~~and tenure of board members shall not be implemented and shall~~  
17 ~~have no force or effect while that board is inoperative or repealed.~~  
18 ~~Every reference to the inoperative or repealed board, as defined~~  
19 ~~in Section 477, shall be deemed to be a reference to the department.~~

20 ~~(3) Notwithstanding Section 107, any provision of law~~  
21 ~~authorizing the appointment of an executive officer by a board~~  
22 ~~subject to the review described in Division 1.2 (commencing with~~  
23 ~~Section 473), or prescribing his or her duties, shall not be~~  
24 ~~implemented and shall have no force or effect while the applicable~~  
25 ~~board is inoperative or repealed. Any reference to the executive~~  
26 ~~officer of an inoperative or repealed board shall be deemed to be~~  
27 ~~a reference to the director or his or her designee.~~

28 ~~(c) It is the intent of the Legislature that subsequent legislation~~  
29 ~~to extend or repeal the inoperative date for any board shall be a~~  
30 ~~separate bill for that purpose.~~

31 SEC. 2. Section 4001 of the Business and Professions Code is  
32 amended to read:

33 4001. (a) There is in the Department of Consumer Affairs a  
34 California State Board of Pharmacy in which the administration  
35 and enforcement of this chapter is vested. The board consists of  
36 13 members.

37 (b) The Governor shall appoint seven competent pharmacists  
38 who reside in different parts of the state to serve as members of  
39 the board. The Governor shall appoint four public members, and  
40 the Senate Committee on Rules and the Speaker of the Assembly

1 shall each appoint a public member who shall not be a licensee of  
2 the board, any other board under this division, or any board referred  
3 to in Section 1000 or 3600.

4 (c) At least five of the seven pharmacist appointees to the board  
5 shall be pharmacists who are actively engaged in the practice of  
6 pharmacy. Additionally, the membership of the board shall include  
7 at least one pharmacist representative from each of the following  
8 practice settings: an acute care hospital, an independent community  
9 pharmacy, a chain community pharmacy, and a long-term health  
10 care or skilled nursing facility. The pharmacist appointees shall  
11 also include a pharmacist who is a member of a labor union that  
12 represents pharmacists. For the purposes of this subdivision, a  
13 “chain community pharmacy” means a chain of 75 or more stores  
14 in California under the same ownership, and an “independent  
15 community pharmacy” means a pharmacy owned by a person or  
16 entity who owns no more than four pharmacies in California.

17 (d) Members of the board shall be appointed for a term of four  
18 years. No person shall serve as a member of the board for more  
19 than two consecutive terms. Each member shall hold office until  
20 the appointment and qualification of his or her successor or until  
21 one year shall have elapsed since the expiration of the term for  
22 which the member was appointed, whichever first occurs.  
23 Vacancies occurring shall be filled by appointment for the  
24 unexpired term.

25 (e) Each member of the board shall receive a per diem and  
26 expenses as provided in Section 103.

27 (f) In accordance with ~~Sections 101.1 and~~ *Section 473.1*, this  
28 section shall become inoperative on July 1, 2010, and, as of January  
29 1, 2011, is repealed, unless a later enacted statute, that becomes  
30 effective on or before January 1, 2011, deletes or extends the dates  
31 on which it becomes inoperative and is repealed. The repeal of  
32 this section renders the board subject to the review required by  
33 Division 1.2 (commencing with Section 473).

34 SEC. 3. Section 4003 of the Business and Professions Code is  
35 amended to read:

36 4003. (a) The board may appoint a person exempt from civil  
37 service who shall be designated as an executive officer and who  
38 shall exercise the powers and perform the duties delegated by the  
39 board and vested in him or her by this chapter. The executive

1 officer may or may not be a member of the board as the board may  
2 determine.

3 (b) The executive officer shall receive the compensation as  
4 established by the board with the approval of the Director of  
5 Finance. The executive officer shall also be entitled to travel and  
6 other expenses necessary in the performance of his or her duties.

7 (c) The executive officer shall maintain and update in a timely  
8 fashion records containing the names, titles, qualifications, and  
9 places of business of all persons subject to this chapter.

10 (d) The executive officer shall give receipts for all money  
11 received by him or her and pay it to the Department of Consumer  
12 Affairs, taking its receipt therefor. Besides the duties required by  
13 this chapter, the executive officer shall perform other duties  
14 pertaining to the office as may be required of him or her by the  
15 board.

16 (e) In accordance with ~~Sections 101.1 and~~ *Section 473.1*, this  
17 section shall become inoperative on July 1, 2010, and, as of January  
18 1, 2011, is repealed, unless a later enacted statute, that becomes  
19 effective on or before January 1, 2011, deletes or extends the dates  
20 on which it becomes inoperative and is repealed.

**Introduced by Senators Simitian and Kuehl**

February 23, 2007

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An act to add Chapter 6.9.2 (commencing with Section 25400.50) to Division 20 of the Health and Safety Code, relating to pharmaceuticals.

LEGISLATIVE COUNSEL'S DIGEST

SB 966, as introduced, Simitian. Pharmaceutical drug disposal.

(1) Existing law requires the Department of Toxic Substances Control to take renewal actions with respect to a hazardous substance that is an illegal controlled substance, a precursor of a controlled substance, or a material intended to be used in the manufacture of controlled substances, and the department is authorized to expend funds appropriated from the Illegal Drug Lab Cleanup Account in the General Fund for this purpose.

This bill would require every retailer of pharmaceutical drugs, as defined, on and after July 1, 2008, to have in place a system for the acceptance and collection of pharmaceutical drugs for proper disposal that includes specified elements. The bill would provide that any person who violates those provisions shall, if convicted, be guilty of a misdemeanor, and subject to specified civil and criminal penalties. Because the bill would create a new crime, the bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.



Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

SECTION 1. Chapter 6.9.2 (commencing with Section 25400.50) is added to Chapter 4 of Division 20 of the Health and Safety Code, to read:

CHAPTER 6.9.2. PHARMACEUTICAL DRUG DISPOSAL

25400.50. The Legislature finds and declares all of the following:

(a) The United States Geological Survey conducted a study in 2002 sampling 139 streams across 30 states and found that 80 percent had measurable concentrations of prescription and nonprescription drugs, steroids, and reproductive hormones.

(b) Exposure, even to low levels of pharmaceuticals, has been shown to have negative effects on fish and other aquatic species and may have negative effects on human health.

(c) In order to reduce the likelihood of improper disposal of pharmaceuticals, it is the purpose of this article to establish a program through which the public may return and ensure the safe and environmentally sound disposal of pharmaceutical drugs and may do so in a way that is convenient for consumers and cost effective for retailers.

25400.51. For the purposes of this article, the following terms have the following meanings, unless the context clearly requires otherwise:

(a) "Consumer" means an individual purchaser or owner of a pharmaceutical drug. "Consumer" does not include a business, corporation, limited partnership, or an entity involved in a wholesale transaction between a distributor and retailer.

(b) "Pharmaceutical drug" means a prescription or over-the-counter drug, including, but not limited to, a drug as defined in Section 109925 or the Federal Food, Drug, and Cosmetic Act, as amended (21 U.S.C. Sec. 321(g)(1)).

(c) "Retailer" means a person or entity who makes a retail sale of a pharmaceutical drug to a consumer in this state.

(d) "Sale" includes, but is not limited to, transactions conducted through sales outlets, catalogs, or the Internet, or any other similar electronic means, but does not include a sale that is a wholesale transaction with a distributor or retailer.

25400.52. (a) On and after July 1, 2008, every retailer shall have in place a system for the acceptance and collection of pharmaceutical drugs for proper disposal.

(b) A system for the acceptance and collection of pharmaceutical drugs for proper disposal shall, at a minimum, include all of the following elements:

(1) The take-back, at no cost to the consumer, of a pharmaceutical drug, the type or brand of which the retailer sold or previously sold.

(2) A notice to consumers that shall include informational materials, including, but not limited to, Internet Web site links or a telephone number, placed on the invoice or purchase order, or packaged with the pharmaceutical drug, that provide consumers access to obtain more information about the opportunities and locations for no-cost pharmaceutical drug recycling.

(3) Information made available to consumers about pharmaceutical drug return opportunities provided by the retailer and encouraging consumers to utilize those opportunities. This information may include, but is not limited to, one or more of the following:

(A) Signage that is prominently displayed and easily visible to the consumer.

(B) Written materials provided to the consumer at the time of purchase or delivery, or both.

(C) Reference to the pharmaceutical drug take-back opportunity in retailer advertising or other promotional materials, or both.

(D) Direct communications with the consumer at the time of purchase.

(c) If a retailer is participating in an existing pharmaceutical drug take-back system and the system otherwise complies with the requirements of this article.

25400.53. On and after July 1, 2008, it is unlawful for a retailer to sell a pharmaceutical drug to a consumer unless the retailer complies with this article, and any violation of this section shall be a misdemeanor.

1     25400.54. Notwithstanding any other provision of law, any  
2 person who violates this chapter shall, if convicted, be subject to  
3 imprisonment for not more than one year in the county jail or a  
4 fine of not more than one thousand dollars (\$1,000), or both the  
5 imprisonment and fine.

6     SEC. 2. No reimbursement is required by this act pursuant to  
7 Section 6 of Article XIII B of the California Constitution because  
8 the only costs that may be incurred by a local agency or school  
9 district will be incurred because this act creates a new crime or  
10 infraction, eliminates a crime or infraction, or changes the penalty  
11 for a crime or infraction, within the meaning of Section 17556 of  
12 the Government Code, or changes the definition of a crime within  
13 the meaning of Section 6 of Article XIII B of the California  
14 Constitution.

# Agenda Item H3

Other Legislation  
Introduced: For  
Information Only



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**California State Board of Pharmacy**

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STATE AND CONSUMERS AFFAIRS AGENCY

DEPARTMENT OF CONSUMER AFFAIRS

ARNOLD SCHWARZENEGGER, GOVERNOR

**To: Legislation and Regulation Committee**

**From: Staff**

**Subject: Other Legislation Introduces: For Information Only**

Following are additional legislative proposals that may be of interest to the board and/or the profession but most likely will not result in a formal board position.

**ASSEMBLY BILL**

**No. 14**

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**Introduced by Assembly Member Laird**  
**(Coauthors: Assembly Members Hancock, Leno, Lieber, and**  
**Saldana)**  
**(Coauthors: Senators Kehoe and Kuehl)**

December 4, 2006

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An act to amend Sections 125.6, 16721, 16721.5, 19572, 23426.5, 23428.19, 23428.28, and 23438 of the Business and Professions Code, to amend Sections 82, 83, 84, 85, and 1747.80 of the Civil Code, to amend Sections 204 and 425.15 of the Code of Civil Procedure, to amend Sections 5047.5 and 24001.5 of the Corporations Code, to amend Sections 66030, 66251, 66270, 66292, 66292.1, 66292.2, 69535, 72011, 72014, 89757, and 92150 of the Education Code, to amend Section 2110 of the Elections Code, to amend Sections 11015, 11131, 54091, 54092, 54961, and 68088 of the Government Code, to amend Sections 1317, 1317.3, and 11801 of the Health and Safety Code, to amend Section 10115.7 of the Public Contract Code, to amend Sections 5080.18 and 5080.34 of the Public Resources Code, to amend Sections 453 and 12751.3 of the Public Utilities Code, to amend Section 24343.2 of, and to repeal and amend Section 17269 of, the Revenue and Taxation Code, and to amend Sections 4666, 5348, 5806, 10000, 16522.1, and 18907 of the Welfare and Institutions Code, relating to discrimination.

LEGISLATIVE COUNSEL'S DIGEST

AB 14, as introduced, Laird. Discrimination: Civil Rights Act of 2007.

(1) The Unruh Civil Rights Act entitles all persons within the jurisdiction of this state to the full and equal accommodations,

advantages, facilities, privileges, or services in all business establishments, regardless of sex, race, color, religion, ancestry, national origin, disability, medical condition, marital status, or sexual orientation.

Under existing law, persons holding licenses under the provisions of the Business and Professions Code are subject to disciplinary action for refusing, or aiding or inciting another licensee to refuse, to perform the licensed services because of the prospective recipient's race, color, sex, religion, ancestry, disability, marital status, or national origin. Existing law also creates an exception to that prohibition for healing arts practitioners if the licensed activity sought would pose a direct threat to the health or safety of others.

This bill would enact the Civil Rights Act of 2007, and would instead subject those licensees to disciplinary action if the above-described discrimination is based upon the prospective recipient's sex, race, color, religion, ancestry, national origin, disability, medical condition, marital status, or sexual orientation. This bill would also provide, however, that nothing in these provisions would require any healing arts practitioner to perform a licensed activity for which he or she is not qualified.

(2) Existing law provides that no person within the jurisdiction of this state shall be excluded or required to be excluded from a business transaction on the basis of a policy expressed in any document or writing and imposed by a 3rd party if that policy requires discrimination against that person on the basis of the person's sex, race, color, religion, ancestry, or national origin, or on the basis that the person conducts or has conducted business in a particular location.

This bill would instead prohibit that discrimination if based upon sex, race, color, religion, ancestry, national origin, disability, medical condition, marital status, or sexual orientation, or on the basis that the person conducts or has conducted business in a particular location.

(3) Existing law provides that it is an unlawful trust and an unlawful restraint of trade for any person to grant or accept any letter of credit, or other document that evidences the transfer of funds or credit, or enter into any contract for the exchange of goods or services, if the letter of credit, contract, or other document contains any provision that requires any person to discriminate against, or to certify that he, she, or it has not dealt with, any other person on the basis of sex, race, color, religion, ancestry, or national origin, or on the basis of a person's lawful business association.

This bill would instead prohibit that discrimination if based upon sex, race, color, religion, ancestry, national origin, disability, medical

condition, marital status, or sexual orientation, or on the basis of a person's lawful business association.

(4) The Horse Racing Law authorizes the California Horse Racing Board to provide by rule for the exclusion or ejection of specified persons from any horse racing inclosure. Notwithstanding that authorization, the law prohibits the board from providing by rule for the exclusion or ejection of a person on the ground of race, color, creed, national origin or ancestry, or sex.

This bill would instead prohibit the board from excluding or ejecting a person on the ground of sex, race, color, religion, ancestry, national origin, disability, medical condition, marital status, or sexual orientation.

(5) Existing law prohibits tennis, handball, racquetball, and beach and athletic clubs from discriminating against any person on account of specified characteristics.

This bill would conform those provisions to the Unruh Civil Rights Act, and instead prohibit those clubs from discriminating on account of sex, race, color, religion, ancestry, national origin, disability, medical condition, marital status, or sexual orientation.

(6) Existing law requires every alcoholic beverage club licensee that restricts membership or the use of its services or facilities on the basis of age, sex, race, religion, color, ancestry, or national origin to incorporate a printed statement on its receipts that the expenditures covered by those receipts are nondeductible for tax purposes.

This bill would instead impose that requirement upon every alcoholic beverage club licensee that restricts membership or the use of its services or facilities on the basis of ancestry, race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, or disability.

(7) The California Fair Dealership Law prohibits various acts of discrimination based on race, color, religion, national ancestry, or sex, with regard to the granting of dealerships, as defined. —

This bill would conform those provisions to the Unruh Civil Rights Act, and instead prohibit that discrimination based upon sex, race, color, religion, ancestry, national origin, disability, medical condition, marital status, or sexual orientation.

(8) A provision of the Song-Beverly Credit Card Act of 1971 prohibits a card issuer, as defined, from refusing to issue a credit card to a person solely because of that person's race, religious creed, color, national origin, ancestry, or sex.

This bill would conform that provision to the Unruh Civil Rights Act, and instead prohibit that discrimination if based upon sex, race, color,



religion, ancestry, national origin, disability, medical condition, marital status, or sexual orientation.

(9) Existing law specifies that no eligible person shall be exempt from service as a trial juror by reason of occupation, race, color, religion, sex, national origin, economic status, or sexual orientation, or for any other reason.

This bill would instead specify that no eligible person shall be exempt from service as a trial juror by reason of occupation, economic status, race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, or disability, or for any other reason.

(10) Existing law provides that no cause of action may be maintained against a person serving without compensation as a director or officer of a nonprofit corporation incorporated pursuant to specified provisions of the nonprofit corporation law on account of any negligent act or omission by that person within the scope of that person's duties, except by court order or if the corporation unlawfully restricts membership, services, or benefits conferred on the basis of race, religious creed, color, national origin, ancestry, sex, marital status, disability, political affiliation, or age.

This bill would instead except from that immunity a director or officer of a nonprofit corporation that unlawfully restricts membership, services, or benefits on the basis of ancestry, marital status, political affiliation, race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, or disability.

(11) Existing law provides that it is the policy of the state to afford all persons equal rights and opportunities in the postsecondary institutions of the state, regardless of specified factors. Existing law prohibits those institutions from discriminating on the basis of those factors, and requires the governing board of each community college district, the Chancellor of the California State University, the president of each California State University campus, the President of the University of California, and the chancellor of each University of California campus to ensure that campus programs and activities are free from discrimination based upon those factors.

This bill would recast those factors in terms of, among others, sex, race, color, religion, ancestry, national origin, disability, medical condition, marital status, or sexual orientation.

(12) Existing law requires Cal Grant Program awards to be awarded without regard to race, religion, creed, sex, or age.

This bill would instead require Cal Grant Program awards to be awarded without regard to age, sex, race, color, religion, ancestry, national origin, disability, medical condition, marital status, or sexual orientation.

(13) Existing law prohibits the funds of a community college district, California State University, or University of California to be used for membership with, or for any participation involving a financial payment or contribution to, any private organization which membership practices are discriminatory on the basis of race, creed, color, sex, religion, or national origin.

This bill would instead prohibit those funds from being used for membership or participation with any private organization that discriminates on the basis of sex, race, color, religion, ancestry, national origin, disability, medical condition, marital status, or sexual orientation.

(14) Existing law prohibits a county elections official from refusing to deputize a person to register voters because of race, creed, color, national origin, ancestry, sex, marital status, disability, religious or political affiliation, or age.

This bill would instead prohibit that refusal to deputize if based upon a person's ancestry, marital status, political affiliation, race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, or disability.

(15) Existing law prohibits the state from using state funds for membership or any participation involving any private organization or the use of a facility which membership practices discriminate on the basis of, among others, race, creed, color, sex, religion, or national origin. Existing law also prohibits the legislative body of a local agency from using a facility which practices discriminate on the basis of those factors.

This bill would instead prohibit that state or local involvement and use of private facilities if the organization or facility discriminates on the basis of, among others, ancestry, race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, or disability.

(16) Existing law requires a city, county, or other local agency that owns, operates, or controls a public beach, or access to that beach, to allow for its use by any person regardless of color, race, religion, ancestry, sex, national origin, or residence.

This bill would conform that provision to the Unruh Civil Rights Act, and allow for that access regardless of sex, race, color, religion, ancestry,

national origin, disability, medical condition, marital status, sexual orientation, or residence.

(17) Existing law authorizes the Judicial Council to provide by rule of court for racial, ethnic, gender bias, and sexual harassment training for judges, commissioners, and referees.

This bill would further authorize the Judicial Council to provide by rule of court for training for judges, commissioners, and referees on any other bias based on race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, or disability.

(18) Existing law prohibits the provision of emergency services and care to be based upon, or affected by, a person's race, ethnicity, religion, national origin, citizenship, age, sex, preexisting medical condition, physical or mental handicap, insurance status, economic status, or ability to pay for medical services, except as specified, and requires every hospital to adopt that policy.

This bill would instead prohibit that discrimination if based upon ethnicity, citizenship, age, preexisting medical condition, insurance status, economic status, ability to pay for medical services, sex, race, color, religion, ancestry, national origin, disability, medical condition, marital status, or sexual orientation, except as specified, and would require every hospital to adopt that policy.

(19) Existing law authorizes each county to apply to the State Department of Health Services for funds for the purposes of alleviating problems in its county related to alcohol and drug abuse. Existing law authorizes each county to administer and coordinate all county alcohol and other drug programs funded by the state. Existing law requires every county alcohol and drug program administrator to assure compliance with applicable laws relating to discrimination against any person because of race, creed, age, religion, sex, sexual preference, or disabling conditions.

This bill would instead require every county alcohol and drug program administrator to assure compliance with applicable laws relating to discrimination against any person because of race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, or disability.

(20) Existing law prohibits state governmental entities and contractors from discriminating in the awarding of any contract or subcontract on the basis of race, color, sex, ethnic origin, or ancestry.

This bill would instead prohibit that discrimination on the basis of ancestry, race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, or disability.

(21) Existing law governs contracts for state park system concessions, and prohibits discrimination by a concessionaire or his or her agents or employees against any person because of the race, color, religion, sex, marital status, national origin, or ancestry of that person.

This bill would conform those provisions to the Unruh Civil Rights Act, and would instead prohibit that discrimination if based upon sex, race, color, religion, ancestry, national origin, disability, medical condition, marital status, or sexual orientation.

(22) Existing law prohibits a public utility from charging a person different rates or deposit amounts because of that person's race, religious creed, color, national origin, ancestry, physical handicap, medical condition, occupation, sex, marital status, or change in marital status.

This bill would instead prohibit that discrimination if based upon occupation, sex, race, color, religion, ancestry, national origin, disability, medical condition, marital status, or sexual orientation.

(23) The Municipal Utility District Act prohibits a municipal utility district from discriminating in the awarding and performance of district contracts on the basis of race, color, sex, national origin, marital status, sexual preference, creed, ancestry, medical condition, or retaliation.

This bill would instead prohibit that discrimination if based upon marital status, ancestry, medical condition, race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, disability, or retaliation.

(24) The Personal Income Tax Law and the Bank and Corporation Tax Law prohibit tax deductions based upon payments or expenditures made at a club that restricts membership or the use of its services or facilities on the basis of age, sex, race, religion, color, ancestry, or national origin.

This bill would instead prohibit those deductions if made at a club that discriminates on the basis of ancestry, race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, or disability. The bill would also delete an identical and duplicate provision as that described above.

(25) Existing law requires the state to contract with appropriate agencies to provide regional centers in the community for persons with developmental disabilities. Existing law prohibits those regional centers from conducting any meeting, conference, or other function in any

facility that discriminates on the basis of race, religious creed, color, national origin, ancestry, sex, or disability.

This bill would further prohibit those centers from conducting any meeting, conference, or other function in any facility that discriminates on the basis of ancestry, race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, or disability.

(26) Existing law requires any county that chooses to provide assisted outpatient treatment services to consider the cultural, linguistic, gender, age, and special needs of minorities in the target populations.

This bill would instead require those counties to consider the cultural, linguistic, and special needs based upon race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, or disability in the target populations.

(27) Existing law requires the State Department of Mental Health to establish service standards that ensure that members of the target population are identified and that services are provided to assist those members. Existing law requires those individual personal service plans to ensure that members of the target population involved in the system of care receive age, gender, and culturally appropriate services, to the extent feasible.

This bill would instead require those service plans to ensure that members of the target population receive culturally appropriate services or appropriate services based upon race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, or disability, to the extent feasible.

(28) Existing law specifies that for the purposes of the Welfare and Institutions Code that aid shall be administered and services provided promptly and humanely, with due regard for the preservation of family life, and without discrimination on account of race, national origin or ancestry, religion, sex, marital status, or political affiliation.

This bill would instead specify that those services be provided without discrimination on account of ancestry, marital status, political affiliation, race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, or disability.

(29) Existing law requires the State Department of Social Services to adopt regulations to govern county transitional housing placement programs that provide supervised housing services to youth meeting specified criteria. Existing law requires the department to review the admission criteria to ensure that the criteria are sufficient to protect

participants and that they do not discriminate on the basis of race, gender, sexual orientation, or disability.

This bill would instead require that the admission criteria do not discriminate on the basis of race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, or disability.

(30) Existing law establishes a statewide program to enable specified recipients of aid and other low-income households to receive food stamps under the federal Food Stamp Program. Existing law provides that in the determination of eligibility for food stamps, there shall be no discrimination against any household by reason of race, color, religious creed, national origin, sex, marital status, or political belief, to the extent not in conflict with federal law.

This bill would instead prohibit that discrimination if based upon marital status, political belief, race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, or disability, to the extent not in conflict with federal law.

(31) This bill would further provide that the changes made by specified provisions of the act are to be construed as illustrative, rather than restrictive.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. This act shall be known and may be cited as "The  
2 Civil Rights Act of 2007."  
3 SEC. 2. Section 125.6 of the Business and Professions Code  
4 is amended to read:  
5 125.6. ~~Every~~ (a) *With regard to an applicant, every* person  
6 who holds a license under the provisions of this code is subject to  
7 disciplinary action under the disciplinary provisions of this code  
8 applicable to ~~such that~~ person if, because of ~~the applicant's race,~~  
9 ~~color, sex, religion, ancestry, disability, marital status, or national~~  
10 ~~origin~~ *any characteristic listed or defined in subdivision (b) or (e)*  
11 *of Section 51 of the Civil Code*, he or she refuses to perform the  
12 licensed activity or aids or incites the refusal to perform ~~such that~~  
13 licensed activity by another licensee, or if, because of ~~the~~  
14 ~~applicant's race, color, sex, religion, ancestry, disability, marital~~  
15 ~~status, or national origin~~ *any characteristic listed or defined in*  
16 *subdivision (b) or (e) of Section 51 of the Civil Code*, he or she

1 makes any discrimination, or restriction in the performance of the  
2 licensed activity. Nothing in this section shall be interpreted to  
3 apply to discrimination by employers with regard to employees or  
4 prospective employees, nor shall this section authorize action  
5 against any club license issued pursuant to Article 4 (commencing  
6 with Section 23425) of Chapter 3 of Division 9 because of  
7 discriminatory membership policy. The presence of architectural  
8 barriers to an individual with physical disabilities ~~which that~~  
9 conform to applicable state or local building codes and regulations  
10 shall not constitute discrimination under this section.

11 ~~Nothing~~

12 *(b) (1) Nothing in this section requires a person licensed*  
13 *pursuant to Division 2 (commencing with Section 500) to permit*  
14 *an individual to participate in, or benefit from, the licensed activity*  
15 *of the licensee where that individual poses a direct threat to the*  
16 *health or safety of others. For this purpose, the term "direct threat"*  
17 *means a significant risk to the health or safety of others that cannot*  
18 *be eliminated by a modification of policies, practices, or procedures*  
19 *or by the provision of auxiliary aids and services.*

20 ~~"License," as used in this section, includes "certificate,"~~  
21 ~~"permit," "authority," and "registration" or any other indicia giving~~  
22 ~~authorization to engage in a business or profession regulated by~~  
23 ~~this code.~~

24 *(2) Nothing in this section requires a person licensed pursuant*  
25 *to Division 2 (commencing with Section 500) to perform a licensed*  
26 *activity for which he or she is not qualified to perform.*

27 ~~"Applicant,"~~

28 *(c) (1) "Applicant," as used in this section, means a person*  
29 *applying for licensed services provided by a person licensed under*  
30 *this code.*

31 ~~"Disability" means any of the following with respect to an~~  
32 ~~individual:~~

33 ~~(a) A physical or mental impairment that substantially limits~~  
34 ~~one or more of the major life activities of the individual.~~

35 ~~(b) A record of such an impairment.~~

36 ~~(c) Being regarded as having such an impairment.~~

37 *(2) "License," as used in this section, includes "certificate,"*  
38 *"permit," "authority," and "registration" or any other indicia*  
39 *giving authorization to engage in a business or profession*  
40 *regulated by this code.*

1 SEC. 3. Section 16721 of the Business and Professions Code  
2 is amended to read:

3 16721. Recognizing that the California Constitution prohibits  
4 a person from being disqualified from entering or pursuing a  
5 business, profession, vocation, or employment because of sex,  
6 race, creed, color, or national or ethnic origin, and guarantees the  
7 free exercise and enjoyment of religion without discrimination or  
8 preference; and recognizing that these and other basic, fundamental  
9 constitutional principles are directly affected and denigrated by  
10 certain on-going practices in the business and commercial world,  
11 it is necessary that provisions protecting and enhancing a person's  
12 right to enter or pursue business and to freely exercise and enjoy  
13 religion, consistent with law, be established.

14 (a) No person within the jurisdiction of this state shall be  
15 excluded from a business transaction on the basis of a policy  
16 expressed in any document or writing and imposed by a third party  
17 where ~~such~~ *that* policy requires discrimination against that person  
18 on the basis of ~~the person's sex, race, color, religion, ancestry or~~  
19 ~~national origin~~ *any characteristic listed or defined in subdivision*  
20 *(b) or (e) of Section 51 of the Civil Code* or on the basis that the  
21 person conducts or has conducted business in a particular location.

22 (b) No person within the jurisdiction of this state shall require  
23 another person to be excluded, or be required to exclude another  
24 person, from a business transaction on the basis of a policy  
25 expressed in any document or writing ~~which~~ *that* requires  
26 discrimination against ~~such~~ *that* other person on the basis of ~~that~~  
27 ~~person's sex, race, color, religion, ancestry or national origin~~ *any*  
28 *characteristic listed or defined in subdivision (b) or (e) of Section*  
29 *51 of the Civil Code* or on the basis that the person conducts or  
30 has conducted business in a particular location.

31 (c) Any violation of any provision of this section is a conspiracy  
32 against trade.

33 (d) Nothing in this section shall be construed to prohibit any  
34 person, on this basis of his or her individual ideology or  
35 preferences, from doing business or refusing to do business with  
36 any other person consistent with law.

37 SEC. 4. Section 16721.5 of the Business and Professions Code  
38 is amended to read:

39 16721.5. (a) It is an unlawful trust and an unlawful restraint  
40 of trade for any person to do the following:



1 ~~(a)~~

2 (1) Grant or accept any letter of credit, or other document ~~which~~  
3 *that* evidences the transfer of funds or credit, or enter into any  
4 contract for the exchange of goods or services, where the letter of  
5 credit, contract, or other document contains any provision ~~which~~  
6 *that* requires any person to discriminate against or to certify that  
7 he, she, or it has not dealt with any other person on the basis of  
8 ~~sex, race, color, religion, ancestry, or national origin~~ *any*  
9 *characteristic listed or defined in subdivision (b) or (e) of Section*  
10 *51 of the Civil Code*, or on the basis of a person's lawful business  
11 associations.

12 ~~(b)~~

13 (2) To refuse to grant or accept any letter of credit, or other  
14 document ~~which~~ *that* evidences the transfer of funds or credit, or  
15 to refuse to enter into any contract for the exchange of goods or  
16 services, on the ground that it does not contain ~~such~~ a  
17 discriminatory provision or certification.

18 ~~The~~

19 (b) *The* provisions of this section shall not apply to any letter  
20 of credit, contract, or other document ~~which~~ *that* contains any  
21 provision pertaining to a labor dispute or an unfair labor practice  
22 if the other provisions of ~~such~~ *that* letter of credit, contract, or  
23 other document do not otherwise violate the provisions of this  
24 section.

25 ~~For the~~

26 (c) *For* purposes of this section, the prohibition against  
27 discrimination on the basis of a person's business associations  
28 shall be deemed not to include the requiring of association with  
29 particular employment or a particular group as a prerequisite to  
30 obtaining group rates or discounts on insurance, recreational  
31 activities, or other similar benefits.

32 ~~For~~

33 (d) *For* purposes of this section, "person" shall include, but not  
34 be limited to, individuals, firms partnerships, associations,  
35 corporations, and governmental agencies.

36 SEC. 5. Section 19572 of the Business and Professions Code  
37 is amended to read:

38 19572. The board may, by rule, provide for the exclusion or  
39 ejection from any inclosure where horse races are authorized, or  
40 from specified portions of ~~such~~ *that* inclosure, of any known

1 bookmaker, known tout, person who has been convicted of a  
2 violation of any provision of this chapter or of any law prohibiting  
3 bookmaking or any other illegal form of wagering on horse races,  
4 or any other person whose presence in the inclosure would, in the  
5 opinion of the board, be inimical to the interests of the state or of  
6 legitimate horse racing, or both. No ~~such~~ rule shall provide for the  
7 exclusion or ejection of any person on the ground of ~~race, color,~~  
8 ~~creed, national origin or ancestry, or sex~~ *any characteristic listed*  
9 *or defined in subdivision (b) or (e) of Section 51 of the Civil Code.*

10 SEC. 6. Section 23426.5 of the Business and Professions Code  
11 is amended to read:

12 23426.5. (a) For purposes of this article, “club” also means  
13 any tennis club that maintains not less than four regulation tennis  
14 courts, together with the necessary facilities and clubhouse, has  
15 members paying regular monthly dues, has been in existence for  
16 not less than 45 years, and is not associated with a common interest  
17 development as defined in Section 1351 of the Civil Code, a  
18 community apartment project as defined in Section 11004 of this  
19 code, a project consisting of condominiums as defined in Section  
20 783 of the Civil Code, or a mobilehome park as defined in Section  
21 18214 of the Health and Safety Code.

22 (b) It shall be unlawful for any club licensed pursuant to this  
23 section to make any discrimination, distinction, or restriction  
24 against any person on account of ~~the person’s color, race, religion,~~  
25 ~~ancestry, national origin, sex, or age~~ *or any characteristic listed*  
26 *or defined in subdivision (b) or (e) of Section 51 of the Civil Code.*

27 SEC. 7. Section 23428.19 of the Business and Professions  
28 Code is amended to read:

29 23428.19. For purposes of this article, “club” also means any  
30 private club organized to play handball or racquetball, which owns,  
31 maintains, or operates a building containing not less than four  
32 regulation-size handball or racquetball courts, which has members,  
33 and the members of which each pay regular monthly dues. As used  
34 in this section, a “regulation-size handball or racquetball court” is  
35 a court meeting the standards for ~~such~~ regulation courts *as are*  
36 promulgated by the United States Handball Association or an  
37 equivalent organization.

38 It shall be unlawful for any club licensed pursuant to this section  
39 to make any discrimination, distinction, or restriction against any  
40 person on account of ~~such person’s color, race, religion, ancestry,~~

1 ~~or national origin~~ any characteristic listed or defined in subdivision  
2 (b) or (e) of Section 51 of the Civil Code.

3 SEC. 8. Section 23428.28 of the Business and Professions  
4 Code is amended to read:

5 23428.28. For the purposes of this article, “club” also means  
6 any beach and athletic club that owns, maintains, or operates a  
7 standard Amateur Athletic Union (AAU) swimming pool together  
8 with the necessary facilities and clubhouse, has a minimum of 500  
9 members paying regular monthly dues, and has continuously  
10 operated for not less than one year.

11 No license shall be issued to any beach and athletic club  
12 qualifying as a club pursuant to this section if the beach and athletic  
13 club in any manner restricts membership or the use of its facilities  
14 on the basis of ~~race, religion, national origin, sex, or age~~ or any  
15 characteristic listed or defined in subdivision (b) or (e) of Section  
16 51 of the Civil Code.

17 SEC. 9. Section 23438 of the Business and Professions Code  
18 is amended to read:

19 23438. (a) Any alcoholic beverage club licensee which restricts  
20 membership or the use of its services or facilities on the basis of  
21 ~~age, sex, race, religion, color, ancestry, or national origin~~ or any  
22 characteristic listed or defined in Section 11135 of the Government  
23 Code shall, when issuing a receipt for expenses which may  
24 otherwise be used by taxpayers for deduction purposes pursuant  
25 to Section 162(a) of the Internal Revenue Code, for purposes of  
26 the Personal Income Tax Law, or Section 24343 of the Revenue  
27 and Taxation Code, for purposes of the Bank and Corporation Tax  
28 Law, incorporate a printed statement on the receipt as follows:

29 “The expenditures covered by this receipt are nondeductible for  
30 state income tax purposes or franchise tax purposes.”

31 (b) For purposes of this section, the following terms have the  
32 following meanings:

33 (1) “Expenses” means expenses, as defined in Section 17269  
34 or 24343.2 of the Revenue and Taxation Code.

35 (2) “Club” means a club holding an alcoholic beverage license  
36 pursuant to the provisions of this division, except a club holding  
37 an alcoholic beverage license pursuant to Section 23425.

38 SEC. 10. Section 82 of the Civil Code is amended to read:

39 82. This part shall be liberally construed and applied to promote  
40 its underlying purposes and policies, which are as follows:

1 (a) The prohibition of discrimination based upon ~~race, color,~~  
2 ~~religion, national origin, ancestry, or sex~~ *any characteristic listed*  
3 *or defined in subdivision (b) or (e) of Section 51* in the granting,  
4 sale, transfer, bequest, termination, and nonrenewal of ~~dealerships;~~  
5 ~~and, dealerships.~~

6 The

7 (b) The requirements of this part shall not be varied by contract  
8 or agreement and any portion of a contract or agreement purporting  
9 to do so is void and unenforceable.

10 SEC. 11. Section 83 of the Civil Code is amended to read:

11 83. On or after January 1, 1981, no grantor, directly or  
12 indirectly, shall refuse to grant a dealership to any person because  
13 ~~of the race, color, religion, national origin, ancestry, or sex of such~~  
14 ~~person~~ *any characteristic listed or defined in subdivision (b) or*  
15 *(e) of Section 51.*

16 SEC. 12. Section 84 of the Civil Code is amended to read:

17 84. On or after January 1, 1981, no grantor, directly or  
18 indirectly, may terminate, cancel, or refuse to renew a dealership  
19 agreement *with a dealer* because of ~~the race, color, religion,~~  
20 ~~national origin, ancestry, or sex of the dealer~~ *any characteristic*  
21 *listed or defined in subdivision (b) or (e) of Section 51.*

22 SEC. 13. Section 85 of the Civil Code is amended to read:

23 85. On or after January 1, 1981, no grantor or dealer, directly  
24 or indirectly, shall refuse to make or to consent to an assignment,  
25 sale, transfer, or bequest of a dealership to any person, or to the  
26 intestate succession to the dealership by any person, because of  
27 ~~the race, color, religion, national origin, ancestry, or sex of such~~  
28 ~~person~~ *any characteristic listed or defined in subdivision (b) or*  
29 *(e) of Section 51.* This section shall not be construed to create any  
30 right in a dealer to assign, sell, transfer, or bequeath a dealership  
31 where the right did not exist prior to January 1, 1981.

32 SEC. 14. Section 1747.80 of the Civil Code is amended to  
33 read:

34 1747.80. (a) No card issuer shall refuse to issue a credit card  
35 to any person solely because of ~~that person's race, religious creed,~~  
36 ~~color, national origin, ancestry or sex~~ *any characteristic listed or*  
37 *defined in subdivision (b) or (e) of Section 51.*

38 (b) Any card issuer who willfully violates this section is liable  
39 for each and every ~~such~~ offense for the actual damages, and two  
40 hundred fifty dollars (\$250) in addition thereto, suffered by any

1 person denied a credit card solely for the reasons set forth in  
2 subdivision (a), ~~and in. In addition such, that~~ person may petition  
3 the court to order the card issuer to issue him *or her* a credit card  
4 upon ~~such the~~ terms, conditions, and standards as the card issuer  
5 normally utilizes in granting credit to other individuals.

6 SEC. 15. Section 204 of the Code of Civil Procedure is  
7 amended to read:

8 204. (a) No eligible person shall be exempt from service as a  
9 trial juror by reason of occupation, ~~race, color, religion, sex,~~  
10 ~~national origin,~~ economic status, or ~~sexual orientation~~ *any*  
11 *characteristic listed or defined in Section 11135 of the Government*  
12 *Code*, or for any other reason. No person shall be excused from  
13 service as a trial juror except as specified in subdivision (b).

14 (b) An eligible person may be excused from jury service only  
15 for undue hardship, upon themselves or upon the public, as defined  
16 by the Judicial Council.

17 SEC. 16. Section 425.15 of the Code of Civil Procedure is  
18 amended to read:

19 425.15. (a) No cause of action against a person serving without  
20 compensation as a director or officer of a nonprofit corporation  
21 described in this section, on account of any negligent act or  
22 omission by that person within the scope of that person's duties  
23 as a director acting in the capacity of a board member, or as an  
24 officer acting in the capacity of, and within the scope of the duties  
25 of, an officer, shall be included in a complaint or other pleading  
26 unless the court enters an order allowing the pleading that includes  
27 that claim to be filed after the court determines that the party  
28 seeking to file the pleading has established evidence that  
29 substantiates the claim. The court may allow the filing of a pleading  
30 that includes that claim following the filing of a verified petition  
31 therefor accompanied by the proposed pleading and supporting  
32 affidavits stating the facts upon which the liability is based. The  
33 court shall order service of the petition upon the party against  
34 whom the action is proposed to be filed and permit that party to  
35 submit opposing affidavits prior to making its determination. The  
36 filing of the petition, proposed pleading, and accompanying  
37 affidavits shall toll the running of any applicable statute of  
38 limitations until the final determination of the matter, which ruling,  
39 if favorable to the petitioning party, shall permit the proposed  
40 pleading to be filed.

1 (b) Nothing in this section shall affect the right of the plaintiff  
2 to discover evidence on the issue of damages.

3 (c) Nothing in this section shall be construed to affect any action  
4 against a nonprofit corporation for any negligent action or omission  
5 of a volunteer director or officer occurring within the scope of the  
6 person's duties.

7 (d) For the purposes of this section, "compensation" means  
8 remuneration whether by way of salary, fee, or other consideration  
9 for services rendered. However, the payment of per diem, mileage,  
10 or other reimbursement expenses to a director or officer shall not  
11 constitute compensation.

12 (e) (1) This section applies only to officers and directors of  
13 nonprofit corporations that are subject to Part 2 (commencing with  
14 Section 5110), Part 3 (commencing with Section 7110), or Part 4  
15 (commencing with Section 9110) of Division 2 of Title 1 of the  
16 Corporations Code that are organized to provide charitable,  
17 educational, scientific, social, or other forms of public service and  
18 that are exempt from federal income taxation under Section  
19 501(c)(1), except any credit union, or Section 501(c)(4), 501(c)(5),  
20 501(c)(7), or 501(c)(19) of the Internal Revenue Code.

21 (2) This section does not apply to any corporation that  
22 unlawfully restricts membership, services, or benefits conferred  
23 on the basis of ~~race, religious creed, color, national origin, ancestry,~~  
24 ~~sex,~~ marital status, ~~disability,~~ political affiliation, or ~~age~~ *any*  
25 *characteristic listed or defined in Section 11135 of the Government*  
26 *Code.*

27 SEC. 17. Section 5047.5 of the Corporations Code is amended  
28 to read:

29 5047.5. (a) The Legislature finds and declares that the services  
30 of directors and officers of nonprofit corporations who serve  
31 without compensation are critical to the efficient conduct and  
32 management of the public service and charitable affairs of the  
33 people of California. The willingness of volunteers to offer their  
34 services has been deterred by a perception that their personal assets  
35 are at risk for these activities. The unavailability and unaffordability  
36 of appropriate liability insurance makes it difficult for these  
37 corporations to protect the personal assets of their volunteer  
38 decisionmakers with adequate insurance. It is the public policy of  
39 this state to provide incentive and protection to the individuals  
40 who perform these important functions.

1 (b) Except as provided in this section, no cause of action for  
2 monetary damages shall arise against any person serving without  
3 compensation as a director or officer of a nonprofit corporation  
4 subject to Part 2 (commencing with Section 5110), Part 3  
5 (commencing with Section 7110), or Part 4 (commencing with  
6 Section 9110) of this division on account of any negligent act or  
7 omission occurring (1) within the scope of that person's duties as  
8 a director acting as a board member, or within the scope of that  
9 person's duties as an officer acting in an official capacity; (2) in  
10 good faith; (3) in a manner that the person believes to be in the  
11 best interest of the corporation; and (4) is in the exercise of his or  
12 her policymaking judgment.

13 (c) This section shall not limit the liability of a director or officer  
14 for any of the following:

15 (1) Self-dealing transactions, as described in Sections 5233 and  
16 9243.

17 (2) Conflicts of interest, as described in Section 7233.

18 (3) Actions described in Sections 5237, 7236, and 9245.

19 (4) In the case of a charitable trust, an action or proceeding  
20 against a trustee brought by a beneficiary of that trust.

21 (5) Any action or proceeding brought by the Attorney General.

22 (6) Intentional, wanton, or reckless acts, gross negligence, or  
23 an action based on fraud, oppression, or malice.

24 (7) Any action brought under Chapter 2 (commencing with  
25 Section 16700) of Part 2 of Division 7 of the Business and  
26 Professions Code.

27 (d) This section only applies to nonprofit corporations organized  
28 to provide religious, charitable, literary, educational, scientific,  
29 social, or other forms of public service that are exempt from federal  
30 income taxation under Section 501(c)(3) or 501(c)(6) of the Internal  
31 Revenue Code.

32 (e) This section applies only if the nonprofit corporation  
33 maintains a general liability insurance policy with an amount of  
34 coverage of at least the following amounts:

35 (1) If the corporation's annual budget is less than fifty thousand  
36 dollars (\$50,000), the minimum required amount is five hundred  
37 thousand dollars (\$500,000).

38 (2) If the corporation's annual budget equals or exceeds fifty  
39 thousand dollars (\$50,000), the minimum required amount is one  
40 million dollars (\$1,000,000).

1 This section applies only if the claim against the director or  
2 officer may also be made directly against the corporation and a  
3 general liability insurance policy is in force both at the time of  
4 injury and at the time the claim against the corporation is made,  
5 so that a policy is applicable to the claim. If a general liability  
6 policy is found to cover the damages caused by the director or  
7 officer, no cause of action as provided in this section shall be  
8 maintained against the director or officer.

9 (f) For the purposes of this section, the payment of actual  
10 expenses incurred in attending meetings or otherwise in the  
11 execution of the duties of a director or officer shall not constitute  
12 compensation.

13 (g) Nothing in this section shall be construed to limit the liability  
14 of a nonprofit corporation for any negligent act or omission of a  
15 director, officer, employee, agent, or servant occurring within the  
16 scope of his or her duties.

17 (h) This section does not apply to any corporation that  
18 unlawfully restricts membership, services, or benefits conferred  
19 on the basis of ~~race, religious creed, color, national origin, ancestry,~~  
20 ~~sex,~~ marital status, ~~disability,~~ political affiliation, or ~~age~~ *any*  
21 *characteristic listed or defined in Section 11135 of the Government*  
22 *Code.*

23 (i) This section does not apply to any volunteer director or  
24 officer who receives compensation from the corporation in any  
25 other capacity, including, but not limited to, as an employee.

26 SEC. 18. Section 24001.5 of the Corporations Code is amended  
27 to read:

28 24001.5. (a) The Legislature finds and declares that the  
29 services of directors or officers of nonprofit medical associations,  
30 as defined in Section 21200, who serve without compensation are  
31 critical to the efficient conduct and management of the public  
32 service and charitable affairs of the people of California. The  
33 willingness of volunteers to offer their services has been deterred  
34 by a perception that their personal assets are at risk for these  
35 activities. The unavailability and unaffordability of appropriate  
36 liability insurance makes it difficult for these associations to protect  
37 the personal assets of their volunteer decisionmakers with adequate  
38 insurance. It is the public policy of this state to provide incentive  
39 and protection to the individuals who perform these important  
40 functions.



1 (b) Except as provided in this section, no cause of action for  
2 monetary damages shall arise against any person serving without  
3 compensation as a director or officer of a nonprofit medical  
4 association, as defined in Section 21200, on account of any  
5 negligent act or omission occurring (1) within the scope of that  
6 person's duties as a director acting as a board member, or within  
7 the scope of that person's duties as an officer acting in an official  
8 capacity; (2) in good faith; (3) in a manner that the person believes  
9 to be in the best interest of the association; and (4) is in the exercise  
10 of his or her policymaking judgment.

11 (c) This section shall not limit the liability of a director or officer  
12 for any of the following:

13 (1) Self-dealing transactions, as described in Sections 5233 and  
14 9243.

15 (2) Conflicts of interest, as described in Section 7233.

16 (3) Actions described in Sections 5237, 7236, and 9245.

17 (4) In the case of a charitable trust, an action or proceeding  
18 against a trustee brought by a beneficiary of that trust.

19 (5) Any action or proceeding brought by the Attorney General.

20 (6) Intentional, wanton, or reckless acts, gross negligence, or  
21 an action based on fraud, oppression, or malice.

22 (7) Any action brought under Chapter 2 (commencing with  
23 Section 16700) of Part 2 of Division 7 of the Business and  
24 Professions Code.

25 (d) This section only applies to nonprofit organizations  
26 organized to provide charitable, educational, scientific, social, or  
27 other forms of public service that are exempt from federal income  
28 taxation under Section 501(c)(3) or 501(c)(6) of the Internal  
29 Revenue Code.

30 (e) This section applies only if the nonprofit association  
31 maintains a general liability insurance policy with an amount of  
32 coverage of at least the following amounts:

33 (1) If the association's annual budget is less than fifty thousand  
34 dollars (\$50,000), the minimum required amount is five hundred  
35 thousand dollars (\$500,000).

36 (2) If the association's annual budget equals or exceeds fifty  
37 thousand dollars (\$50,000), the minimum required amount is one  
38 million dollars (\$1,000,000).

1 This section applies only if the general liability insurance policy  
2 is in force both at the time of injury and at the time that the claim  
3 is made, so that the policy is applicable to the claim.

4 (f) For the purposes of this section, the payment of actual  
5 expenses incurred in attending meetings or otherwise in the  
6 execution of the duties of a director or officer shall not constitute  
7 compensation.

8 (g) Nothing in this section shall be construed to limit the liability  
9 of a nonprofit association for any negligent act or omission of a  
10 director, officer employee, agent, or servant occurring within the  
11 scope of his or her duties.

12 (h) This section does not apply to any association that unlawfully  
13 restricts membership, services, or benefits conferred on the basis  
14 of ~~race, religious creed, color, national origin, ancestry, sex, marital~~  
15 ~~status, disability, political affiliation, or age~~ *any characteristic*  
16 *listed or defined in Section 11135 of the Government Code.*

17 (i) This section does not apply to any volunteer director or  
18 officer who receives compensation from the association in any  
19 other capacity, including, but not limited to, as an employee.

20 SEC. 19. Section 66030 of the Education Code is amended to  
21 read:

22 66030. (a) It is the intent of the Legislature that public higher  
23 education in California strive to provide educationally equitable  
24 environments ~~which~~ *that* give each Californian, regardless of ~~ethnic~~  
25 ~~origin, race, gender, age, disability, or economic circumstance, or~~  
26 *any other characteristic listed or defined in subdivision (b) or (e)*  
27 *of Section 51 of the Civil Code*, a reasonable opportunity to develop  
28 fully his or her potential.

29 (b) It is the responsibility of the governing boards of institutions  
30 of higher education to ensure and maintain multicultural learning  
31 environments free from all forms of discrimination and harassment,  
32 in accordance with state and federal law.

33 SEC. 20. Section 66251 of the Education Code is amended to  
34 read:

35 66251. It is the policy of the State of California to afford all  
36 persons, regardless of ~~their sex, ethnic group identification, race,~~  
37 ~~national origin, religion, mental or physical disability, or regardless~~  
38 ~~of any characteristic listed or defined in subdivision (b) or (e) of~~  
39 *Section 51 of the Civil Code* or any basis that is contained in the  
40 prohibition of hate crimes set forth in subdivision (a) of Section

1 422.6 of the Penal Code, equal rights and opportunities in the  
2 postsecondary institutions of the state. The purpose of this chapter  
3 is to prohibit acts that are contrary to that policy and to provide  
4 remedies therefor.

5 SEC. 21. Section 66270 of the Education Code is amended to  
6 read:

7 66270. No person shall be subjected to discrimination on the  
8 basis of ~~sex, ethnic group identification, race, national origin,~~  
9 ~~religion, color, or mental or physical disability, any characteristic~~  
10 ~~listed or defined in subdivision (b) or (e) of Section 51 of the Civil~~  
11 ~~Code~~ or any basis that is contained in the prohibition of hate crimes  
12 set forth in subdivision (a) of Section 422.6 of the Penal Code in  
13 any program or activity conducted by any postsecondary  
14 educational institution that receives, or benefits from, state financial  
15 assistance or enrolls students who receive state student financial  
16 aid.

17 SEC. 22. Section 66292 of the Education Code is amended to  
18 read:

19 66292. (a) The governing board of a community college district  
20 shall have the primary responsibility for ensuring that community  
21 college district programs and activities are free from discrimination  
22 based on ~~ethnic group identification, religion, age, sex, color, or~~  
23 ~~physical or mental disability or any characteristic listed or defined~~  
24 ~~in subdivision (b) or (e) of Section 51 of the Civil Code.~~

25 (b) The Chancellor's office of the California Community  
26 Colleges shall have responsibility for monitoring the compliance  
27 of each district with any and all regulations adopted pursuant to  
28 Section 11138 of the Government Code.

29 SEC. 23. Section 66292.1 of the Education Code is amended  
30 to read:

31 66292.1. The Chancellor of the California State University and  
32 the president of each California State University campus shall have  
33 the primary responsibility for ensuring that campus programs and  
34 activities are free from discrimination based on ~~ethnic group~~  
35 ~~identification, religion, age, sex, color, or physical or mental~~  
36 ~~disability or any characteristic listed or defined in subdivision (b)~~  
37 ~~or (e) of Section 51 of the Civil Code.~~

38 SEC. 24. Section 66292.2 of the Education Code is amended  
39 to read:

1     66292.2. The President of the University of California and the  
2 chancellor of each University of California campus shall have  
3 primary responsibility for ensuring that campus programs and  
4 activities are free from discrimination based on ~~ethnic group~~  
5 ~~identification, religion, age, sex, color, or physical or mental~~  
6 ~~disability~~ or any characteristic listed or defined in subdivision (b)  
7 or (e) of Section 51 of the Civil Code.

8     SEC. 25. Section 69535 of the Education Code is amended to  
9 read:

10     69535. (a) Cal Grant Program awards shall be based upon the  
11 financial need of the applicant. The level of financial need of each  
12 applicant shall be determined by the commission pursuant to  
13 Article 1.5 (commencing with Section 69503).

14     (b) For the applicants so qualifying, academic criteria or criteria  
15 related to past performances shall be utilized as the criteria in  
16 determining eligibility for grants.

17     (c) All Cal Grant Program award recipients shall be residents  
18 of California, as determined by the commission pursuant to Part  
19 41 (commencing with Section 68000), and shall remain eligible  
20 only if they are in attendance and making satisfactory progress  
21 through the instructional programs, as determined by the  
22 commission.

23     (d) Part-time students shall not be discriminated against in the  
24 selection of Cal Grant Program award recipients, and awards to  
25 part-time students shall be roughly proportional to the time spent  
26 in the instructional program, as determined by the commission.  
27 First-time Cal Grant Program award recipients who are part-time  
28 students shall be eligible for a full-time renewal award.

29     (e) Cal Grant Program awards shall be awarded without regard  
30 to ~~race, religion, creed, sex, or age~~ or any characteristic listed or  
31 defined in subdivision (b) or (e) of Section 51 of the Civil Code.

32     (f) No applicant shall receive more than one type of Cal Grant  
33 Program award concurrently. Except as provided in subdivisions  
34 (b) and (c) of Section 69535.1, no applicant shall:

35     (1) Receive one or a combination of Cal Grant Program awards  
36 in excess of a total of four years of full-time attendance in an  
37 undergraduate program.

38     (2) Have obtained a baccalaureate degree prior to receiving a  
39 Cal Grant Program award, except as provided in Section 69540.

(g) Cal Grant Program awards, except as provided in subdivision (c) of Section 69535.1, may only be used for educational expenses of a program of study leading directly to an undergraduate degree or certificate, or for expenses of undergraduate coursework in a program of study leading directly to a first professional degree, but for which no baccalaureate degree is awarded.

(h) Commencing in 1999, the commission shall, for students who accelerate college attendance, increase the amount of award proportional to the period of additional attendance resulting from attendance in classes that fulfill requirements or electives for graduation during summer terms, sessions, or quarters. In the aggregate, the total amount a student may receive in a four-year period may not be increased as a result of accelerating his or her progress to a degree by attending summer terms, sessions, or quarters.

(i) The commission shall notify Cal Grant award recipients of the availability of funding for the summer term, session, or quarter through prominent notice in financial aid award letters, materials, guides, electronic information, and other means that may include, but not be limited to, surveys, newspaper articles, or attachments to communications from the commission and any other published documents.

(j) The commission may provide by appropriate rules and regulations for reports, accounting, and statements from the award winner and college or university of attendance pertaining to the use or application of the award as the commission may deem proper.

(k) The commission may establish Cal Grant Program awards in one hundred dollar (\$100) increments.

(l) A Cal Grant Program award may be utilized only at the following institutions or programs:

(1) Any California private or independent postsecondary educational institution or program that participates in two of the three federal campus-based student aid programs and whose students participate in the Pell Grant program.

(2) Any nonprofit regionally accredited institution headquartered and operating in California that certifies to the commission that 10 percent of the institution's operating budget, as demonstrated in an audited financial statement, is expended for the purposes of institutionally funded student financial aid in the form of grants

1 and that demonstrates to the commission that it has the  
2 administrative capacity to administer the funds.

3 (3) Any California public postsecondary educational institution  
4 or program.

5 SEC. 26. Section 72011 of the Education Code is amended to  
6 read:

7 72011. Every community college district shall provide access  
8 to its services, classes, and programs without regard to ~~race;~~  
9 ~~religious creed, color, national origin, ancestry, handicap, or sex~~  
10 *any characteristic listed or defined in subdivision (b) or (e) of*  
11 *Section 51 of the Civil Code.*

12 SEC. 27. Section 72014 of the Education Code is amended to  
13 read:

14 72014. No funds under the control of a community college  
15 district shall ever be used for membership or for any participation  
16 involving a financial payment or contribution, on behalf of the  
17 district or any individual employed by or associated therewith, in  
18 any private organization whose membership practices are  
19 discriminatory on the basis of ~~race, creed, color, sex, religion, or~~  
20 ~~national origin~~ *any characteristic listed or defined in subdivision*  
21 *(b) or (e) of Section 51 of the Civil Code.* This section does not  
22 apply to any public funds which have been paid to an individual  
23 officer or employee of the district as salary, or to any funds which  
24 are used directly or indirectly for the benefit of student  
25 organizations.

26 SEC. 28. Section 89757 of the Education Code is amended to  
27 read:

28 89757. None of the funds enumerated in Section 89756, nor  
29 any of the funds of an auxiliary organization, shall ever be used  
30 by any university or college for membership or for any participation  
31 involving a financial payment or contribution, on behalf of the  
32 institution, or any individual employed by or associated therewith,  
33 in any private organization whose membership practices are  
34 discriminatory on the basis of ~~race, creed, color, sex, religion, or~~  
35 ~~national origin~~ *any characteristic listed or defined in subdivision*  
36 *(b) or (e) of Section 51 of the Civil Code.* This section does not  
37 apply to any public funds which have been paid to an individual  
38 employee or officer as salary, or to any funds which are used  
39 directly or indirectly for the benefit of student organizations.

1 SEC. 29. Section 92150 of the Education Code is amended to  
2 read:

3 92150. No state funds under the control of an officer or  
4 employee of the University of California shall ever be used for  
5 membership or for any participation involving a financial payment  
6 or contribution, on behalf of the university, or any individual  
7 employed by or associated therewith, in any private organization  
8 whose membership practices are discriminatory on the basis of  
9 ~~race, creed, color, sex, religion, or national origin~~ *any characteristic*  
10 *listed or defined in subdivision (b) or (e) of Section 51 of the Civil*  
11 *Code. This section does not apply to any public funds which have*  
12 *been paid to an individual employee or officer of the university as*  
13 *salary, or to any funds which are used directly or indirectly for the*  
14 *benefit of student organizations.*

15 SEC. 30. Section 2110 of the Elections Code is amended to  
16 read:

17 2110. No county elections official may refuse to deputize any  
18 person to register voters because of ~~race, creed, color, national~~  
19 ~~origin, ancestry, sex, marital status, disability, religious or political~~  
20 ~~affiliation, or age~~ *any characteristic listed or defined in Section*  
21 *11135 of the Government Code.*

22 SEC. 31. Section 11015 of the Government Code is amended  
23 to read:

24 11015. No state funds under the control of an officer or  
25 employee of the state, or of any agency thereof, shall ever be used  
26 for membership or for any participation involving a financial  
27 payment or contribution, on behalf of the state agency, or any  
28 individual employed by or associated therewith, in any private  
29 organization whose membership practices are discriminatory on  
30 the basis of ~~race, creed, color, sex, religion, or national origin~~ *any*  
31 *characteristic listed or defined in Section 11135. This section does*  
32 *not apply to any public funds which have been paid to an individual*  
33 *employee or officer as salary.*

34 SEC. 32. Section 11131 of the Government Code is amended  
35 to read:

36 11131. No state agency shall conduct any meeting, conference,  
37 or other function in any facility that prohibits the admittance of  
38 any person, or persons, on the basis of ~~race, religious creed, color,~~  
39 ~~national origin, ancestry, or sex~~ *any characteristic listed or defined*  
40 *in Section 11135, or that is inaccessible to disabled persons, or*

1 where members of the public may not be present without making  
2 a payment or purchase. As used in this section, “state agency”  
3 means and includes every state body, office, officer, department,  
4 division, bureau, board, council, commission, or other state agency.

5 SEC. 33. Section 54091 of the Government Code is amended  
6 to read:

7 54091. Any city, county, or other local agency ~~which~~ *that* owns,  
8 operates, or controls any public beach shall allow the use of ~~such~~  
9 ~~that~~ public beach by all persons regardless of ~~color, race, religion,~~  
10 ~~ancestry, sex, national origin, or residence or any characteristic~~  
11 ~~listed or defined in subdivision (b) or (e) of Section 51 of the Civil~~  
12 ~~Code.~~ Nonresidents of the city, county, or other local agency shall  
13 be permitted to use ~~such that~~ public beach upon the same terms  
14 and conditions as are residents of ~~such the~~ city, county, or local  
15 agency.

16 SEC. 34. Section 54092 of the Government Code is amended  
17 to read:

18 54092. Any city, county, or other local agency ~~which~~ *that*  
19 allows any property owned, operated, or controlled by it to be used  
20 as a means of access to any public beach shall allow free access  
21 over ~~such that~~ property to all persons regardless of ~~color, race,~~  
22 ~~religion, ancestry, sex, national origin or residence or any~~  
23 ~~characteristic listed or defined in subdivision (b) or (e) of Section~~  
24 ~~51 of the Civil Code.~~

25 SEC. 35. Section 54961 of the Government Code is amended  
26 to read:

27 54961. (a) No legislative body of a local agency shall conduct  
28 any meeting in any facility that prohibits the admittance of any  
29 person, or persons, on the basis of ~~race, religious creed, color,~~  
30 ~~national origin, ancestry, or sex~~ *any characteristic listed or defined*  
31 *in Section 11135*, or which is inaccessible to disabled persons, or  
32 where members of the public may not be present without making  
33 a payment or purchase. This section shall apply to every local  
34 agency as defined in Section 54951.

35 (b) No notice, agenda, announcement, or report required under  
36 this chapter need identify any victim or alleged victim of tortious  
37 sexual conduct or child abuse unless the identity of the person has  
38 been publicly disclosed.

39 SEC. 36. Section 68088 of the Government Code is amended  
40 to read:



1 68088. The Judicial Council may provide by rule of court for  
2 racial, ethnic, and gender bias, and sexual harassment training *and*  
3 *training for any other bias based on any characteristic listed or*  
4 *defined in Section 11135* for judges, commissioners, and referees.

5 SEC. 37. Section 1317 of the Health and Safety Code is  
6 amended to read:

7 1317. (a) Emergency services and care shall be provided to  
8 any person requesting the services or care, or for whom services  
9 or care is requested, for any condition in which the person is in  
10 danger of loss of life, or serious injury or illness, at any health  
11 facility licensed under this chapter that maintains and operates an  
12 emergency department to provide emergency services to the public  
13 when the health facility has appropriate facilities and qualified  
14 personnel available to provide the services or care.

15 (b) In no event shall the provision of emergency services and  
16 care be based upon, or affected by, the person's ~~race~~, ethnicity,  
17 ~~religion, national origin~~, citizenship, age, ~~sex~~, preexisting medical  
18 condition, ~~physical or mental handicap~~, insurance status, economic  
19 status, ~~or~~ ability to pay for medical services, *or any other*  
20 *characteristic listed or defined in subdivision (b) or (e) of Section*  
21 *51 of the Civil Code*, except to the extent that a circumstance such  
22 as age, sex, preexisting medical condition, or physical or mental  
23 ~~handicap~~ *disability* is medically significant to the provision of  
24 appropriate medical care to the patient.

25 (c) Neither the health facility, its employees, nor any physician  
26 and surgeon, dentist, clinical psychologist, or podiatrist shall be  
27 liable in any action arising out of a refusal to render emergency  
28 services or care if the refusal is based on the determination,  
29 exercising reasonable care, that the person is not suffering from  
30 an emergency medical condition, or that the health facility does  
31 not have the appropriate facilities or qualified personnel available  
32 to render those services.

33 (d) Emergency services and care shall be rendered without first  
34 questioning the patient or any other person as to his or her ability  
35 to pay therefor. However, the patient or his or her legally  
36 responsible relative or guardian shall execute an agreement to pay  
37 therefor or otherwise supply insurance or credit information  
38 promptly after the services are rendered.

39 (e) If a health facility subject to this chapter does not maintain  
40 an emergency department, its employees shall nevertheless exercise

1 reasonable care to determine whether an emergency exists and  
2 shall direct the persons seeking emergency care to a nearby facility  
3 ~~which~~ *that* can render the needed services, and shall assist the  
4 persons seeking emergency care in obtaining the services, including  
5 transportation services, in every way reasonable under the  
6 circumstances.

7 (f) No act or omission of any rescue team established by any  
8 health facility licensed under this chapter, or operated by the federal  
9 or state government, a county, or by the Regents of the University  
10 of California, done or omitted while attempting to resuscitate any  
11 person who is in immediate danger of loss of life shall impose any  
12 liability upon the health facility, the officers, members of the staff,  
13 nurses, or employees of the health facility, including, but not  
14 limited to, the members of the rescue team, or upon the federal or  
15 state government or a county, if good faith is exercised.

16 (g) "Rescue team," as used in this section, means a special group  
17 of physicians and surgeons, nurses, and employees of a health  
18 facility who have been trained in cardiopulmonary resuscitation  
19 and have been designated by the health facility to attempt, in cases  
20 of emergency, to resuscitate persons who are in immediate danger  
21 of loss of life.

22 (h) This section shall not relieve a health facility of any duty  
23 otherwise imposed by law upon the health facility for the  
24 designation and training of members of a rescue team or for the  
25 provision or maintenance of equipment to be used by a rescue  
26 team.

27 SEC. 38. Section 1317.3 of the Health and Safety Code is  
28 amended to read:

29 1317.3. (a) As a condition of licensure, each hospital shall  
30 adopt, in consultation with the medical staff, policies and transfer  
31 protocols consistent with this article and regulations adopted  
32 hereunder.

33 (b) As a condition of licensure, each hospital shall adopt a policy  
34 prohibiting discrimination in the provision of emergency services  
35 and care based on ~~race, ethnicity, religion, national origin,~~  
36 citizenship, age, ~~sex,~~ preexisting medical condition, ~~physical or~~  
37 ~~mental handicap,~~ insurance status, economic status, ~~or~~ ability to  
38 pay for medical services, *or any characteristic listed or defined*  
39 *in subdivision (b) or (e) of Section 51 of the Civil Code*, except to  
40 the extent that a circumstance such as age, sex, preexisting medical

1 condition, or physical or mental ~~handicap~~ disability is medically  
2 significant to the provision of appropriate medical care to the  
3 patient. Transfer by a hospital of a patient who requires evaluation  
4 for involuntary psychiatric treatment, as determined by the  
5 receiving hospital or other receiving health facility, based upon  
6 the decision of a professional person duly authorized by law to  
7 ~~make such a~~ that decision, shall not constitute discrimination for  
8 the purposes of this section, if the transferring hospital has not  
9 been designated as an evaluation facility by a county pursuant to  
10 Section 5150 of the Welfare and Institutions Code, and if the  
11 transfer is in compliance with Section 1317.2.

12 (c) As a condition of licensure, each hospital shall require that  
13 physicians and surgeons who serve on an "on-call" basis to the  
14 hospital's emergency room cannot refuse to respond to a call on  
15 the basis of the patient's ~~race, ethnicity, religion, national origin,~~  
16 ~~citizenship, age, sex, preexisting medical condition, physical or~~  
17 ~~mental handicap,~~ insurance status, economic status, ~~or~~ ability to  
18 pay for medical services, *or any characteristic listed or defined*  
19 *in subdivision (b) or (e) of Section 51 of the Civil Code*, except to  
20 the extent that a circumstance such as age, sex, preexisting medical  
21 condition, or physical or mental ~~handicap~~ disability is medically  
22 significant to the provision of appropriate medical care to the  
23 patient. If a contract between a physician and surgeon and hospital  
24 for the provision of emergency room coverage presently prevents  
25 the hospital from imposing those conditions, the conditions shall  
26 be included in the contract as soon as is legally permissible.  
27 Nothing in this section shall be construed as requiring that any  
28 physician serve on an "on-call" basis.

29 (d) As a condition of licensure, all hospitals shall inform all  
30 persons presented to an emergency room or their representatives  
31 if any are present and the person is unable to understand verbal or  
32 written communication, both orally and in writing, of the reasons  
33 for the transfer or refusal to provide emergency services and care  
34 and of the person's right to emergency services and care prior to  
35 transfer or discharge without regard to ability to pay. Nothing in  
36 this subdivision requires notification of the reasons for the transfer  
37 in advance of the transfer where a person is unaccompanied and  
38 the hospital has made a reasonable effort to locate a representative,  
39 and because of the person's physical or mental condition,  
40 notification is not possible. All hospitals shall prominently post a

1 sign in their emergency rooms informing the public of their rights.  
2 Both the posted sign and written communication concerning the  
3 transfer or refusal to provide emergency services and care shall  
4 give the address of the department as the government agency to  
5 contact in the event the person wishes to complain about the  
6 hospital's conduct.

7 (e) If a hospital does not timely adopt the policies and protocols  
8 required in this article, the hospital, in addition to denial or  
9 revocation of any of its licenses, shall be subject to a fine not to  
10 exceed one thousand dollars (\$1,000) each day after expiration of  
11 60 days' written notice from the state department that the hospital's  
12 policies or protocols required by this article are inadequate unless  
13 the delay is excused by the state department upon a showing of  
14 good and sufficient cause by the hospital. The notice shall include  
15 a detailed statement of the state department's reasons for its  
16 determination and suggested changes to the hospital's protocols  
17 which would be acceptable to the state department.

18 (f) Each hospital's policies and protocols required in or under  
19 this article shall be submitted for approval to the state department  
20 by December 31, 1988.

21 SEC. 39. Section 11801 of the Health and Safety Code is  
22 amended to read:

23 11801. The alcohol and drug program administrator, acting  
24 through administrative channels designated pursuant to Section  
25 11795, shall do all of the following:

26 (a) Coordinate and be responsible for the planning process,  
27 including preparation of the county plan executing the negotiated  
28 net amount contract, and Drug Medi-Cal contract, whichever is  
29 applicable.

30 (b) (1) Recommend to the board of supervisors the provision  
31 of services, establishment of facilities, contracting for services or  
32 facilities, and other matters necessary or desirable in accomplishing  
33 the purposes of this part.

34 (2) Exercise general supervision over the alcohol and other drug  
35 program services provided under the county plan, negotiated net  
36 amount contract, and Drug Medi-Cal contract, whichever is  
37 applicable.

38 (c) Assure compliance with applicable laws relating to  
39 discrimination against any person because of ~~race, creed, age,~~  
40 ~~religion, sex, sexual preference, or disabling conditions~~ any

1 *characteristic listed or defined in Section 11135 of the Government*  
2 *Code.*

3 (d) (1) Provide reports and information periodically to the  
4 advisory board regarding the status of alcohol and other drug  
5 programs in the county and keep the advisory board informed  
6 regarding changes in relevant state, federal, and local laws or  
7 regulations or improvements in program design and services that  
8 may affect the county alcohol and other drug program.

9 (2) Submit an annual report to the board of supervisors reporting  
10 all activities of the alcohol and other drug program, including a  
11 financial accounting of expenditures and a forecast of anticipated  
12 needs for the upcoming year.

13 (e) Be directly responsible for the administration of all alcohol  
14 or other drug program funds allocated to the county under this  
15 part, administration of county operated programs, and coordination  
16 and monitoring of programs that have contracts with the county  
17 to provide alcohol and other drug services.

18 (f) Encourage the appropriate utilization of all other public and  
19 private alcohol and other drug programs and services in the county  
20 in coordination with the programs funded pursuant to this part.

21 (g) Coordinate the activities of the county alcohol and other  
22 drug program with appropriate health planning agencies pursuant  
23 to Chapter 5 (commencing with Section 11820).

24 (h) Assure the evaluation of alcohol and other drug programs,  
25 including the collection of appropriate and necessary information,  
26 pursuant to Chapter 6 (commencing with Section 11825).

27 (i) Participate in the process to assure program quality in  
28 compliance with appropriate standards pursuant to Chapter 7  
29 (commencing with Section 11830).

30 (j) Participate in the regulations process pursuant to Chapter 8  
31 (commencing with Section 11835).

32 (k) Participate and represent the county in meetings of the  
33 County Alcohol and Drug Program Administrators Association of  
34 California pursuant to Section 11811.5 for the purposes of  
35 representing the counties in their relationship with the state with  
36 respect to policies, standards, and administration for alcohol and  
37 other drug abuse services.

38 (l) Provide for the orientation of the members of the advisory  
39 board, including, but not limited to, the provision of information

1 and materials on alcohol and other drug problems and programs,  
2 planning, procedures, and site visits to local programs.

3 (m) Perform any other acts that may be necessary, desirable, or  
4 proper to carry out the purposes of this part.

5 SEC. 40. Section 10115.7 of the Public Contract Code is  
6 amended to read:

7 10115.7. (a) Nothing in this article shall be construed to  
8 authorize any awarding department to discriminate in the awarding  
9 of any contract on the basis of ~~race, color, sex, ethnic origin, or~~  
10 *ancestry or any characteristic listed or defined in Section 11135*  
11 *of the Government Code.*

12 (b) Nothing in this article shall be construed to authorize any  
13 contractor to discriminate in the solicitation or acceptance of bids  
14 for subcontracting, or for materials or equipment, on the basis of  
15 ~~race, color, sex, ethnic origin, or ancestry or any characteristic~~  
16 *listed or defined in Section 11135 of the Government Code.*

17 SEC. 41. Section 5080.18 of the Public Resources Code is  
18 amended to read:

19 5080.18. All concession contracts entered into pursuant to this  
20 article shall contain, but ~~shall~~ *are not be* limited to, all of the  
21 following provisions:

22 (a) The maximum term shall be 10 years, except that a term of  
23 more than 10 years may be provided if the director determines that  
24 the longer term is necessary to allow the concessionaire to amortize  
25 improvements made by the concessionaire, to facilitate the full  
26 utilization of a structure that is scheduled by the department for  
27 replacement or redevelopment, or to serve the best interests of the  
28 state. The term shall not exceed 20 years without specific  
29 authorization by statute.

30 (b) Every concessionaire shall submit to the department all sales  
31 and use tax returns.

32 (c) Every concession shall be subject to audit by the department.

33 (d) A performance bond shall be obtained and maintained by  
34 the concessionaire. In lieu of a bond, the concessionaire may  
35 substitute a deposit of funds acceptable to the department. Interest  
36 on the deposit shall accrue to the concessionaire.

37 (e) The concessionaire shall obtain and maintain in force at all  
38 times a policy of liability insurance in an amount adequate for the  
39 nature and extent of public usage of the concession and naming  
40 the state as an additional insured.

1 (f) Any discrimination by the concessionaire or his or her agents  
2 or employees against any person because of ~~the race, color,~~  
3 ~~religion, sex, marital status, national origin, or ancestry of that~~  
4 ~~person~~ *any characteristic listed or defined in subdivision (b) or*  
5 *(e) of Section 51 of the Civil Code* is prohibited.

6 (g) To be effective, any modification of the concession contract  
7 shall be evidenced in writing.

8 (h) Whenever a concession contract is terminated for substantial  
9 breach, there shall be no obligation on the part of the state to  
10 purchase any improvements made by the concessionaire.

11 SEC. 42. Section 5080.34 of the Public Resources Code is  
12 amended to read:

13 5080.34. Every agreement entered into pursuant to this article  
14 and every contract for a concession on lands that are subject to an  
15 agreement entered into pursuant to this article shall expressly  
16 prohibit discrimination against any person because of ~~the race,~~  
17 ~~color, religion, sex, marital status, national origin, or ancestry of~~  
18 ~~that person~~ *any characteristic listed or defined in subdivision (b)*  
19 *or (e) of Section 51 of the Civil Code.*

20 SEC. 43. Section 453 of the Public Utilities Code is amended  
21 to read:

22 453. (a) No public utility shall, as to rates, charges, service,  
23 facilities, or in any other respect, make or grant any preference or  
24 advantage to any corporation or person or subject any corporation  
25 or person to any prejudice or disadvantage.

26 (b) No public utility shall prejudice, disadvantage, or require  
27 different rates or deposit amounts from a person because of ~~race,~~  
28 ~~religious creed, color, national origin, ancestry, physical handicap,~~  
29 ~~medical condition, occupation, sex, marital status or change in~~  
30 ~~marital status~~ *or any characteristic listed or defined in subdivision*  
31 *(b) or (e) of Section 51 of the Civil Code.* A person who has  
32 exhausted all administrative remedies with the commission may  
33 institute a suit for injunctive relief and reasonable attorney's fees  
34 in cases of an alleged violation of this subdivision. If successful  
35 in litigation, the prevailing party shall be awarded attorney's fees.

36 (c) No public utility shall establish or maintain any unreasonable  
37 difference as to rates, charges, service, facilities, or in any other  
38 respect, either as between localities or as between classes of  
39 service.

(d) No public utility shall include with any bill for services or commodities furnished any customer or subscriber any advertising or literature designed or intended (1) to promote the passage or defeat of a measure appearing on the ballot at any election whether local, statewide, or national, (2) to promote or defeat any candidate for nomination or election to any public office, (3) to promote or defeat the appointment of any person to any administrative or executive position in federal, state or local government, or (4) to promote or defeat any change in federal, state, or local legislation or regulations.

(e) The commission may determine any question of fact arising under this section.

SEC. 44. Section 12751.3 of the Public Utilities Code is amended to read:

12751.3. (a) The purpose of this section is to provide affected districts with an alternative acquisition process that will result in reduced costs to ratepayers. Notwithstanding Section 12751, when the expenditure for the purchase of supplies and materials exceeds fifty thousand dollars (\$50,000) and the district determines that ratepayers reasonably can expect a net benefit in the cost of district services, the district may provide for the purchase of the supplies and materials by contract let in accordance with best value at the lowest cost acquisition policies adopted by the board pursuant to this section.

(b) The best value at the lowest cost acquisition policies adopted pursuant to subdivision (a) shall include the following:

(1) Price and service level proposals that reduce the district's overall operating costs.

(2) Supplies and materials standards that support the district's strategic supplies and materials acquisition and management program direction.

(3) A procedure for protest and resolution.

(c) For purposes of this section, "best value at the lowest cost acquisition" means a competitive procurement process whereby the award of a contract for supplies and materials may take into consideration any of the following factors:

(1) The total cost to the district of its use or consumption of supplies and materials.

(2) The operational cost or benefit incurred by the district as a result of the contract award.



- 1 (3) The value to the district of vendor-added services.
- 2 (4) The quality, effectiveness, and innovation of supplies,
- 3 materials, and services.
- 4 (5) The reliability of delivery or installation schedules.
- 5 (6) The terms and conditions of product warranties and vendor
- 6 guarantees.
- 7 (7) The financial stability of the vendor.
- 8 (8) The vendor's quality assurance program.
- 9 (9) The vendor's experience with the provision of supplies,
- 10 materials, and services.
- 11 (10) The consistency of the vendor's proposed supplies,
- 12 materials, and services with the district's overall supplies and
- 13 materials procurement program.
- 14 (11) The economic benefits to the general community related
- 15 to job creation or retention.
- 16 (d) If a district that did not purchase supplies and materials by
- 17 contract let pursuant to this section before January 1, 2006, elects
- 18 to purchase supplies and materials by contract, let in accordance
- 19 with best value acquisition policies adopted by the board pursuant
- 20 to this section, the district shall submit a report to the Legislative
- 21 Analyst on or before January 1, 2011. The district shall include in
- 22 the report a summary of the costs and benefits of best value
- 23 acquisition compared to traditional low bid procurement practices.
- 24 The report shall also include statistics showing the number of
- 25 contracts awarded to small businesses, minority-owned businesses,
- 26 and new businesses and the number of years each contract awardee
- 27 had been in business. The report shall also include an analysis of
- 28 the effects of best value procurement practices on these businesses,
- 29 the nature of any disputes arising from the use of best value
- 30 procurement practices, and the status of those disputes. On or
- 31 before April 1, 2011, the Legislative Analyst shall report to the
- 32 Legislature on the use of "best value at lowest cost acquisition"
- 33 procurement practices used by municipal utility districts, and
- 34 recommend whether to modify this section and extend the authority
- 35 of additional districts to elect to purchase supplies and materials
- 36 by contract let in accordance with best value acquisition policies,
- 37 beyond January 1, 2012.
- 38 (e) The district shall ensure that all businesses have a fair and
- 39 equitable opportunity to compete for, and participate in, district
- 40 contracts and shall also ensure that discrimination in the award

1 and performance of contracts does not occur on the basis of ~~race,~~  
2 ~~color, sex, national origin,~~ marital status, ~~sexual preference, creed,~~  
3 ~~ancestry, medical condition, any characteristic listed or defined~~  
4 ~~in Section 11135 of the Government Code,~~ or retaliation for having  
5 filed a discrimination complaint in the performance of district  
6 contractual obligations.

7 (f) A district that did not purchase supplies and materials by  
8 contract let pursuant to this section before January 1, 2006, shall  
9 not purchase supplies and materials by contract let pursuant to this  
10 section after January 1, 2012.

11 SEC. 45. Section 17269 of the Revenue and Taxation Code,  
12 as added by Section 4 of Chapter 1139 of the Statutes of 1987, is  
13 repealed.

14 ~~17269. Whereas, the people of the State of California desire~~  
15 ~~to promote and achieve tax equity and fairness among all the state's~~  
16 ~~citizens and further desire to conform to the public policy of~~  
17 ~~nondiscrimination, the Legislature hereby enacts the following for~~  
18 ~~these reasons and for no other purpose:~~

19 (a) ~~The provisions of Section 162(a) of the Internal Revenue~~  
20 ~~Code shall not be applicable to expenses incurred by a taxpayer~~  
21 ~~with respect to expenditures made at, or payments made to, a club~~  
22 ~~which restricts membership or the use of its services or facilities~~  
23 ~~on the basis of age, sex, race, religion, color, ancestry, or national~~  
24 ~~origin.~~

25 (b) ~~A club described in subdivision (a) holding an alcoholic~~  
26 ~~beverage license pursuant to Division 9 (commencing with Section~~  
27 ~~23000) of the Business and Professions Code, except a club holding~~  
28 ~~an alcoholic beverage license pursuant to Section 23425 thereof,~~  
29 ~~shall provide on each receipt furnished to a taxpayer a printed~~  
30 ~~statement as follows:~~

31 ~~"The expenditures covered by this receipt are nondeductible for~~  
32 ~~state income tax purposes or franchise tax purposes."~~

33 (c) ~~For purposes of this section:~~

34 (1) ~~"Expenses" means those expenses otherwise deductible~~  
35 ~~under Section 162(a) of the Internal Revenue Code, except for~~  
36 ~~subdivision (a), and includes, but is not limited to, club membership~~  
37 ~~dues and assessments, food and beverage expenses, expenses for~~  
38 ~~services furnished by the club, and reimbursements or salary~~  
39 ~~adjustments to officers or employees for any of the preceding~~  
40 ~~expenses.~~

1     ~~(2) "Club" means a club as defined in Division 9 (commencing~~  
2 ~~with Section 23000) of the Business and Professions Code, except~~  
3 ~~a club as defined in Section 23425 thereof.~~

4     SEC. 46. Section 17269 of the Revenue and Taxation Code,  
5 as added by Section 2 of Chapter 1463 of the Statutes of 1987, is  
6 amended to read:

7     17269. Whereas, the people of the State of California desire  
8 to promote and achieve tax equity and fairness among all the state's  
9 citizens and further desire to conform to the public policy of  
10 nondiscrimination, the Legislature hereby enacts the following for  
11 these reasons and for no other purpose:

12     (a) The provisions of Section 162 (a) of the Internal Revenue  
13 Code shall not be applicable to expenses incurred by a taxpayer  
14 with respect to expenditures made at, or payments made to, a club  
15 which restricts membership or the use of its services or facilities  
16 on the basis of ~~age, sex, race, religion, color, ancestry, or national~~  
17 ~~origin~~ *any characteristic listed or defined in Section 11135 of the*  
18 *Government Code.*

19     (b) A club described in subdivision (a) holding an alcoholic  
20 beverage license pursuant to Division 9 (commencing with Section  
21 23000) of the Business and Professions Code, except a club holding  
22 an alcoholic beverage license pursuant to Section 23425 thereof,  
23 shall provide on each receipt furnished to a taxpayer a printed  
24 statement as follows:

25     "The expenditures covered by this receipt are nondeductible for  
26 state income tax purposes or franchise tax purposes."

27     (c) For purposes of this section:

28     (1) "Expenses" means those expenses otherwise deductible  
29 under Section 162(a) of the Internal Revenue Code, except for  
30 subdivision (a), and includes, but is not limited to, club membership  
31 dues and assessments, food and beverage expenses, expenses for  
32 services furnished by the club, and reimbursements or salary  
33 adjustments to officers or employees for any of the preceding  
34 expenses.

35     (2) "Club" means a club as defined in Division 9 (commencing  
36 with Section 23000) of the Business and Professions Code, except  
37 a club as defined in Section 23425 thereof.

38     SEC. 47. Section 24343.2 of the Revenue and Taxation Code  
39 is amended to read:

1     24343.2. Whereas, the people of the State of California desire  
2 to promote and achieve tax equity and fairness among all the state's  
3 citizens and further desire to conform to the public policy of  
4 nondiscrimination, the Legislature hereby enacts the following for  
5 these reasons and for no other purpose:

6     (a) No deduction shall be allowed under Section 24343 for  
7 expenses incurred by a taxpayer with respect to expenditures made  
8 at, or payments made to, a club which restricts membership or the  
9 use of its services or facilities on the basis of ~~age, sex, race,~~  
10 ~~religion, color, ancestry, or national origin~~ *any characteristic listed*  
11 *or defined in Section 11135 of the Government Code.*

12     (b) A club described in subdivision (a) holding an alcoholic  
13 beverage license pursuant to Division 9 (commencing with Section  
14 23000) of the Business and Professions Code, except a club holding  
15 an alcoholic beverage license pursuant to Section 23425 thereof,  
16 shall provide on each receipt furnished to a taxpayer a printed  
17 statement as follows:

18     “The expenditures covered by this receipt are nondeductible for  
19 state income tax purposes or franchise tax purposes.”

20     (c) For purposes of this section:

21     (1) “Expenses” means those expenses otherwise deductible  
22 under Section 24343, except for subdivision (a), and includes, but  
23 is not limited to, club membership dues and assessments, food and  
24 beverage expenses, expenses for services furnished by the club,  
25 and reimbursements or salary adjustments to officers or employees  
26 for any of the preceding expenses.

27     (2) “Club” means a club as defined in Division 9 (commencing  
28 with Section 23000) of the Business and Professions Code, except  
29 a club as defined in Section 23425 thereof.

30     SEC. 48. Section 4666 of the Welfare and Institutions Code is  
31 amended to read:

32     4666. No regional center shall conduct any meeting, conference,  
33 or other function in any facility that prohibits the admittance of  
34 any person, or persons, on the basis of ~~race, religious creed, color,~~  
35 ~~national origin, ancestry, sex, or disability~~ *any characteristic listed*  
36 *or defined in Section 11135 of the Government Code.*

37     SEC. 49. Section 5348 of the Welfare and Institutions Code is  
38 amended to read:

39     5348. (a) For purposes of subdivision (e) of Section 5346, any  
40 county that chooses to provide assisted outpatient treatment

1 services pursuant to this article shall offer assisted outpatient  
2 treatment services including, but not limited to, all of the following:

3 (1) Community-based, mobile, multidisciplinary, highly trained  
4 mental health teams that use high staff-to-client ratios of no more  
5 than 10 clients per team member for those subject to court-ordered  
6 services pursuant to Section 5346.

7 (2) A service planning and delivery process that includes the  
8 following:

9 (A) Determination of the numbers of persons to be served and  
10 the programs and services that will be provided to meet their needs.  
11 The local director of mental health shall consult with the sheriff,  
12 the police chief, the probation officer, the mental health board,  
13 contract agencies, and family, client, ethnic, and citizen  
14 constituency groups as determined by the director.

15 (B) Plans for services, including outreach to families whose  
16 severely mentally ill adult is living with them, design of mental  
17 health services, coordination and access to medications, psychiatric  
18 and psychological services, substance abuse services, supportive  
19 housing or other housing assistance, vocational rehabilitation, and  
20 veterans' services. Plans shall also contain evaluation strategies,  
21 that shall consider cultural, linguistic, ~~gender, age,~~ and special  
22 ~~needs of minorities based on any characteristic listed or defined~~  
23 ~~in Section 11135 of the Government Code~~ in the target populations.  
24 Provision shall be made for staff with the cultural background and  
25 linguistic skills necessary to remove barriers to mental health  
26 services as a result of having limited-English-speaking ability and  
27 cultural differences. Recipients of outreach services may include  
28 families, the public, primary care physicians, and others who are  
29 likely to come into contact with individuals who may be suffering  
30 from an untreated severe mental illness who would be likely to  
31 become homeless if the illness continued to be untreated for a  
32 substantial period of time. Outreach to adults may include adults  
33 voluntarily or involuntarily hospitalized as a result of a severe  
34 mental illness.

35 (C) Provisions for services to meet the needs of persons who  
36 are physically disabled.

37 (D) Provision for services to meet the special needs of older  
38 adults.

1 (E) Provision for family support and consultation services,  
2 parenting support and consultation services, and peer support or  
3 self-help group support, where appropriate.

4 (F) Provision for services to be client-directed and that employ  
5 psychosocial rehabilitation and recovery principles.

6 (G) Provision for psychiatric and psychological services that  
7 are integrated with other services and for psychiatric and  
8 psychological collaboration in overall service planning.

9 (H) Provision for services specifically directed to seriously  
10 mentally ill young adults 25 years of age or younger who are  
11 homeless or at significant risk of becoming homeless. These  
12 provisions may include continuation of services that would still  
13 be received through other funds had eligibility not been terminated  
14 as a result of age.

15 (I) Services reflecting special needs of women from diverse  
16 cultural backgrounds, including supportive housing that accepts  
17 children, personal services coordinator therapeutic treatment, and  
18 substance treatment programs that address gender specific trauma  
19 and abuse in the lives of persons with mental illness, and vocational  
20 rehabilitation programs that offer job training programs free of  
21 gender bias and sensitive to the needs of women.

22 (J) Provision for housing for clients that is immediate,  
23 transitional, permanent, or all of these.

24 (K) Provision for clients who have been suffering from an  
25 untreated severe mental illness for less than one year, and who do  
26 not require the full range of services, but are at risk of becoming  
27 homeless unless a comprehensive individual and family support  
28 services plan is implemented. These clients shall be served in a  
29 manner that is designed to meet their needs.

30 (3) Each client shall have a clearly designated mental health  
31 personal services coordinator who may be part of a  
32 multidisciplinary treatment team who is responsible for providing  
33 or assuring needed services. Responsibilities include complete  
34 assessment of the client's needs, development of the client's  
35 personal services plan, linkage with all appropriate community  
36 services, monitoring of the quality and follow through of services,  
37 and necessary advocacy to ensure each client receives those  
38 services which are agreed to in the personal services plan. Each  
39 client shall participate in the development of his or her personal  
40 services plan, and responsible staff shall consult with the designated

1 conservator, if one has been appointed, and, with the consent of  
2 the client, shall consult with the family and other significant  
3 persons as appropriate.

4 (4) The individual personal services plan shall ensure that  
5 persons subject to assisted outpatient treatment programs receive  
6 age, gender, and culturally appropriate services, to the extent  
7 feasible, that are designed to enable recipients to:

8 (A) Live in the most independent, least restrictive housing  
9 feasible in the local community, and, for clients with children, to  
10 live in a supportive housing environment that strives for  
11 reunification with their children or assists clients in maintaining  
12 custody of their children as is appropriate.

13 (B) Engage in the highest level of work or productive activity  
14 appropriate to their abilities and experience.

15 (C) Create and maintain a support system consisting of friends,  
16 family, and participation in community activities.

17 (D) Access an appropriate level of academic education or  
18 vocational training.

19 (E) Obtain an adequate income.

20 (F) Self-manage their illnesses and exert as much control as  
21 possible over both the day-to-day and long-term decisions that  
22 affect their lives.

23 (G) Access necessary physical health care and maintain the best  
24 possible physical health.

25 (H) Reduce or eliminate serious antisocial or criminal behavior,  
26 and thereby reduce or eliminate their contact with the criminal  
27 justice system.

28 (I) Reduce or eliminate the distress caused by the symptoms of  
29 mental illness.

30 (J) Have freedom from dangerous addictive substances.

31 (5) The individual personal services plan shall describe the  
32 service array that meets the requirements of paragraph (4), and to  
33 the extent applicable to the individual, the requirements of  
34 paragraph (2).

35 (b) Any county that provides assisted outpatient treatment  
36 services pursuant to this article also shall offer the same services  
37 on a voluntary basis.

38 (c) Involuntary medication shall not be allowed absent a separate  
39 order by the court pursuant to Sections 5332 to 5336, inclusive.

(d) Each county that operates an assisted outpatient treatment program pursuant to this article shall provide data to the State Department of Mental Health and, based on the data, the department shall report to the Legislature on or before May 1 of each year in which the county provides services pursuant to this article. The report shall include, at a minimum, an evaluation of the effectiveness of the strategies employed by each program operated pursuant to this article in reducing homelessness and hospitalization of persons in the program and in reducing involvement with local law enforcement by persons in the program. The evaluation and report shall also include any other measures identified by the department regarding persons in the program and all of the following, based on information that is available:

(1) The number of persons served by the program and, of those, the number who are able to maintain housing and the number who maintain contact with the treatment system.

(2) The number of persons in the program with contacts with local law enforcement, and the extent to which local and state incarceration of persons in the program has been reduced or avoided.

(3) The number of persons in the program participating in employment services programs, including competitive employment.

(4) The days of hospitalization of persons in the program that have been reduced or avoided.

(5) Adherence to prescribed treatment by persons in the program.

(6) Other indicators of successful engagement, if any, by persons in the program.

(7) Victimization of persons in the program.

(8) Violent behavior of persons in the program.

(9) Substance abuse by persons in the program.

(10) Type, intensity, and frequency of treatment of persons in the program.

(11) Extent to which enforcement mechanisms are used by the program, when applicable.

(12) Social functioning of persons in the program.

(13) Skills in independent living of persons in the program.

(14) Satisfaction with program services both by those receiving them and by their families, when relevant.

SEC. 50. Section 5806 of the Welfare and Institutions Code is amended to read:



1     5806. The State Department of Mental Health shall establish  
2 service standards that ensure that members of the target population  
3 are identified, and services provided to assist them to live  
4 independently, work, and reach their potential as productive  
5 citizens. The department shall provide annual oversight of grants  
6 issued pursuant to this part for compliance with these standards.  
7 These standards shall include, but are not limited to, all of the  
8 following:

9     (a) A service planning and delivery process that is target  
10 population based and includes the following:

11     (1) Determination of the numbers of clients to be served and  
12 the programs and services that will be provided to meet their needs.  
13 The local director of mental health shall consult with the sheriff,  
14 the police chief, the probation officer, the mental health board,  
15 contract agencies, and family, client, ethnic and citizen  
16 constituency groups as determined by the director.

17     (2) Plans for services, including outreach to families whose  
18 severely mentally ill adult is living with them, design of mental  
19 health services, coordination and access to medications, psychiatric  
20 and psychological services, substance abuse services, supportive  
21 housing or other housing assistance, vocational rehabilitation, and  
22 veterans' services. Plans shall also contain evaluation strategies,  
23 that shall consider cultural, linguistic, gender, age, and special  
24 needs of minorities in the target populations. Provision shall be  
25 made for staff with the cultural background and linguistic skills  
26 necessary to remove barriers to mental health services due to  
27 limited-English-speaking ability and cultural differences.  
28 Recipients of outreach services may include families, the public,  
29 primary care physicians, and others who are likely to come into  
30 contact with individuals who may be suffering from an untreated  
31 severe mental illness who would be likely to become homeless if  
32 the illness continued to be untreated for a substantial period of  
33 time. Outreach to adults may include adults voluntarily or  
34 involuntarily hospitalized as a result of a severe mental illness.

35     (3) Provisions for services to meet the needs of target population  
36 clients who are physically disabled.

37     (4) Provision for services to meet the special needs of older  
38 adults.

1 (5) Provision for family support and consultation services,  
2 parenting support and consultation services, and peer support or  
3 self-help group support, where appropriate for the individual.

4 (6) Provision for services to be client-directed and that employ  
5 psychosocial rehabilitation and recovery principles.

6 (7) Provision for psychiatric and psychological services that are  
7 integrated with other services and for psychiatric and psychological  
8 collaboration in overall service planning.

9 (8) Provision for services specifically directed to seriously  
10 mentally ill young adults 25 years of age or younger who are  
11 homeless or at significant risk of becoming homeless. These  
12 provisions may include continuation of services that would still  
13 be received through other funds had eligibility not been terminated  
14 due to age.

15 (9) Services reflecting special needs of women from diverse  
16 cultural backgrounds, including supportive housing that accepts  
17 children, personal services coordinator therapeutic treatment, and  
18 substance treatment programs that address gender specific trauma  
19 and abuse in the lives of persons with mental illness, and vocational  
20 rehabilitation programs that offer job training programs free of  
21 gender bias and sensitive to the needs of women.

22 (10) Provision for housing for clients that is immediate,  
23 transitional, permanent, or all of these.

24 (11) Provision for clients who have been suffering from an  
25 untreated severe mental illness for less than one year, and who do  
26 not require the full range of services but are at risk of becoming  
27 homeless unless a comprehensive individual and family support  
28 services plan is implemented. These clients shall be served in a  
29 manner that is designed to meet their needs.

30 (b) Each client shall have a clearly designated mental health  
31 personal services coordinator who may be part of a  
32 multidisciplinary treatment team who is responsible for providing  
33 or assuring needed services. Responsibilities include complete  
34 assessment of the client's needs, development of the client's  
35 personal services plan, linkage with all appropriate community  
36 services, monitoring of the quality and follow through of services,  
37 and necessary advocacy to ensure each client receives those  
38 services which are agreed to in the personal services plan. Each  
39 client shall participate in the development of his or her personal  
40 services plan, and responsible staff shall consult with the designated

1 conservator, if one has been appointed, and, with the consent of  
2 the client, consult with the family and other significant persons as  
3 appropriate.

4 (c) The individual personal services plan shall ensure that  
5 members of the target population involved in the system of care  
6 receive ~~age, gender, and~~ culturally appropriate services *or*  
7 *appropriate services based on any characteristic listed or defined*  
8 *in Section 11135 of the Government Code*, to the extent feasible,  
9 that are designed to enable recipients to:

10 (1) Live in the most independent, least restrictive housing  
11 feasible in the local community, and for clients with children, to  
12 live in a supportive housing environment that strives for  
13 reunification with their children or assists clients in maintaining  
14 custody of their children as is appropriate.

15 (2) Engage in the highest level of work or productive activity  
16 appropriate to their abilities and experience.

17 (3) Create and maintain a support system consisting of friends,  
18 family, and participation in community activities.

19 (4) Access an appropriate level of academic education or  
20 vocational training.

21 (5) Obtain an adequate income.

22 (6) Self-manage their illness and exert as much control as  
23 possible over both the day-to-day and long-term decisions which  
24 affect their lives.

25 (7) Access necessary physical health care and maintain the best  
26 possible physical health.

27 (8) Reduce or eliminate serious antisocial or criminal behavior  
28 and thereby reduce or eliminate their contact with the criminal  
29 justice system.

30 (9) Reduce or eliminate the distress caused by the symptoms of  
31 mental illness.

32 (10) Have freedom from dangerous addictive substances.

33 (d) The individual personal services plan shall describe the  
34 service array that meets the requirements of subdivision (c), and  
35 to the extent applicable to the individual, the requirements of  
36 subdivision (a).

37 SEC. 51. Section 10000 of the Welfare and Institutions Code  
38 is amended to read:

39 10000. The purpose of this division is to provide for protection,  
40 care, and assistance to the people of the state in need thereof, and

1 to promote the welfare and happiness of all of the people of the  
2 state by providing appropriate aid and services to all of its needy  
3 and distressed. It is the legislative intent that aid shall be  
4 administered and services provided promptly and humanely, with  
5 due regard for the preservation of family life, and without  
6 discrimination on account of ~~race, national origin or ancestry,~~  
7 ~~religion, sex, marital status, or political affiliation; and that, or any~~  
8 *characteristic listed or defined in Section 11135 of the Government*  
9 *Code. That aid shall be so administered and services so provided,*  
10 *to the extent not in conflict with federal law, as to encourage*  
11 *self-respect, self-reliance, and the desire to be a good citizen, useful*  
12 *to society.*

13 SEC. 52. Section 16522.1 of the Welfare and Institutions Code  
14 is amended to read:

15 16522.1. In order to be licensed pursuant to Section 1559.110  
16 of the Health and Safety Code, an applicant shall obtain  
17 certification from the county department of social services or the  
18 county probation department that the facility program provides all  
19 of the following:

20 (a) (1) Admission criteria for participants in the program,  
21 including, but not limited to, consideration of the applicant's age,  
22 previous placement history, delinquency history, history of drug  
23 or alcohol abuse, current strengths, level of education, mental  
24 health history, medical history, prospects for successful  
25 participation in the program, and work experience. Youth who are  
26 wards of the court described in Section 602 and youth receiving  
27 psychotropic medications shall be eligible for consideration to  
28 participate in the program, and shall not be automatically excluded  
29 due to these factors.

30 (2) The department shall review the admission criteria to ensure  
31 that the criteria are sufficient to protect participants and that they  
32 do not discriminate on the basis of ~~race, gender, sexual orientation,~~  
33 ~~or disability~~ *any characteristic listed or defined in Section 11135*  
34 *of the Government Code.*

35 (b) Strict employment criteria that include a consideration of  
36 the employee's age, drug or alcohol history, and experience in  
37 working with persons in this age group.

38 (c) A training program designed to educate employees who  
39 work directly with participants about the characteristics of persons  
40 in this age group placed in long-term care settings, and designed

1 to ensure that these employees are able to adequately supervise  
2 and counsel participants and to provide them with training in  
3 independent living skills.

4 (d) A detailed plan for monitoring the placement of persons  
5 under the licensee's care.

6 (e) A contract between the participating person and the licensee  
7 that specifically sets out the requirements for each party, and in  
8 which the licensee and the participant agree to the requirements  
9 of this article.

10 (f) An allowance to be provided to each participant in the  
11 program. In the case of a participant living independently, this  
12 allowance shall be sufficient for the participant to purchase food  
13 and other necessities.

14 (g) A system for payment for utilities, telephone, and rent.

15 (h) Policies regarding all of the following:

16 (1) Education requirements.

17 (2) Work expectations.

18 (3) Savings requirements.

19 (4) Personal safety.

20 (5) Visitors including, but not limited to, visitation by the  
21 placement auditor pursuant to subdivision (d).

22 (6) Emergencies.

23 (7) Medical problems.

24 (8) Disciplinary measures.

25 (9) Child care.

26 (10) Pregnancy.

27 (11) Curfew.

28 (12) Apartment cleanliness.

29 (13) Use of utilities and telephone.

30 (14) Budgeting.

31 (15) Care of furnishings.

32 (16) Decorating of apartments.

33 (17) Cars.

34 (18) Lending or borrowing money.

35 (19) Unauthorized purchases.

36 (20) Dating.

37 (21) Grounds for termination that may include, but shall not be  
38 limited to, illegal activities or harboring runaways.

39 (i) Apartment furnishings, and a policy on disposition of the  
40 furnishings when the participant completes the program.

1 (j) Evaluation of the participant's progress in the program and  
2 reporting to the independent living program and to the department  
3 regarding that progress.

4 (k) A linkage to the federal Job Training and Partnership Act  
5 (29 U.S.C. Sec. 1501 et seq.) program administered in the local  
6 area to provide employment training to eligible participants.

7 SEC. 53. Section 18907 of the Welfare and Institutions Code  
8 is amended to read:

9 18907. In the determination of eligibility for food stamps, there  
10 shall be no discrimination against any household by reason of ~~race,~~  
11 ~~color, religious creed, national origin, sex,~~ marital status, ~~or~~  
12 political belief, *or any characteristic listed or defined in Section*  
13 *11135 of the Government Code* to the extent not in conflict with  
14 federal law.

15 SEC. 54. The changes made by Sections 2, 3, 4, 5, 6, 7, 8, 10,  
16 11, 12, 13, 14, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 33, 34,  
17 37, 38, 41, 42, and 43 of this act that become effective January 1,  
18 2008, are intended to be construed as illustrative, rather than  
19 restrictive.

**ASSEMBLY BILL**

**No. 64**

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**Introduced by Assembly Member Berg**

December 4, 2006

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An act to add Article 7.7 (commencing with Section 8599.5) to Chapter 7 of Division 1 of Title 2 of the Government Code, relating to volunteer emergency services.

LEGISLATIVE COUNSEL'S DIGEST

AB 64, as introduced, Berg. Uniform Emergency Volunteer Health Practitioners Act.

Existing law establishes, in the Governor's office, the Office of Emergency Services, which, among others things, coordinates state emergency services in the event of a natural disaster. Existing law requires the Office of Emergency Services, in consultation with appropriate state and local governmental agencies and volunteer agencies, to develop a plan for state and local governmental agencies to utilize volunteer resources during a state of emergency proclaimed by the Governor. Existing law also, until March 1, 2007, ratifies, approves, and sets forth the provisions of the Emergency Management Assistance Compact.

This bill would enact the Uniform Emergency Volunteer Health Practitioners Act, which would provide procedures to register volunteer health practitioners with valid and current licenses in other states. The bill would allow such a volunteer to practice, through a host entity, health or veterinary services as appropriate pursuant to his or her license for the duration of a state or local emergency, and would require a host entity in this state to consult and coordinate its activities with the Office of Emergency Services to the extent practicable. The bill would allow

the office to, pursuant to the Emergency Management Assistance Compact, incorporate into the emergency forces of this state or a local government in this state registered volunteer health practitioners who are not officials or employees of this state.

This bill would set forth certain scope of practice standards for a registered volunteer health practitioner during an emergency and would allow the Office of Emergency Services and applicable licensing boards to limit, restrict, or otherwise regulate specific aspects of practice. The bill would also permit a host entity to restrict the health or veterinary services that such a practitioner may provide. The bill would exempt a registered volunteer health practitioner from the unauthorized practice provisions for a health or veterinary service unless he or she has reason to know of an applicable limitation, modification, or restriction or that a similarly licensed practitioner in this state would not be permitted to provide that service. The bill would allow a health care licensing board to impose administrative sanctions upon a health practitioner licensed in this state for conduct outside of this state in response to an out-of-state emergency, and to impose administrative sanctions upon a practitioner not licensed in this state for conduct in this state in response to an in-state emergency, if certain conditions are met.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Article 7.7 (commencing with Section 8599.5)  
2 is added to Chapter 7 of Division 1 of Title 2 of the Government  
3 Code, to read:

4  
5 Article 7.7. Uniform Emergency Volunteer Health Practitioners  
6 Act

7  
8 8599.5. This article may be cited as the Uniform Emergency  
9 Volunteer Health Practitioners Act.

10 8599.51. For the purposes of this article, the following terms  
11 have the following meanings:

12 (a) "Disaster relief organization" means an entity that provides  
13 emergency or disaster relief services that include health or  
14 veterinary services provided by volunteer health practitioners and  
15 that meets either of the following requirements:



1 (1) It is designated or recognized as a provider of those services  
2 pursuant to a disaster response and recovery plan adopted by an  
3 agency of the federal government or the Office of Emergency  
4 Services.

5 (2) It regularly plans and conducts its activities in coordination  
6 with an agency of the federal government or the Office of  
7 Emergency Services.

8 (b) "Emergency" means an event or condition that is a state of  
9 emergency proclaimed pursuant to Section 8625 or a local  
10 emergency proclaimed pursuant to Section 8630.

11 (c) "Emergency declaration" means a proclamation of  
12 emergency issued pursuant to Section 8625 or 8630.

13 (d) "Emergency Management Assistance Compact" means the  
14 interstate compact approved by Congress by Public Law No.  
15 104-321 and ratified in Article 3.7 (commencing with Section 179)  
16 of Chapter 1 of Division 1 of Title 1.

17 (e) "Entity" means a person other than an individual.

18 (f) "Health facility" means an entity licensed under the laws of  
19 this or another state to provide health or veterinary services.

20 (g) "Health practitioner" means an individual licensed under  
21 the laws of this or another state to provide health or veterinary  
22 services.

23 (h) "Health services" means the provision of treatment, care,  
24 advice, or guidance, or other services, or supplies, related to the  
25 health or death of individuals or human populations, to the extent  
26 necessary to respond to an emergency, including all of the  
27 following:

28 (1) Services or supplies concerning the physical or mental  
29 condition or functional status of an individual or affecting the  
30 structure or function of the body, including the following:

31 (A) Preventive, diagnostic, therapeutic, rehabilitative,  
32 maintenance, or palliative care.

33 (B) Counseling, assessment, procedures, or other services.

34 (2) The sale or dispensing of a drug, a device, equipment, or  
35 another item to an individual in accordance with a prescription.

36 (3) Funeral, cremation, cemetery, or other mortuary services.

37 (i) "Host entity" means an entity operating in this state that uses  
38 volunteer health practitioners to respond to an emergency.

39 (j) "License" means authorization by a state to engage in health  
40 or veterinary services that are unlawful without the authorization.

1 (k) "Person" means an individual, corporation, business trust,  
2 trust, partnership, limited liability company, association, joint  
3 venture, public corporation, government or governmental  
4 subdivision, agency, or instrumentality, or any other legal or  
5 commercial entity.

6 (l) "Scope of practice" means the extent of the authorization to  
7 provide health or veterinary services granted to a health practitioner  
8 by a license issued to the practitioner in the state in which the  
9 principal part of the practitioner's services are rendered, including  
10 any conditions imposed by the licensing authority in that state.

11 (m) "State" means a state of the United States, the District of  
12 Columbia, Puerto Rico, the United States Virgin Islands, or any  
13 territory or insular possession subject to the jurisdiction of the  
14 United States.

15 (n) "Veterinary services" means the provision of treatment,  
16 care, advice or guidance, or other services or supplies, related to  
17 the health or death of an animal or to animal populations, to the  
18 extent necessary to respond to an emergency, including all of the  
19 following:

20 (1) Diagnosis, treatment, or prevention of an animal disease,  
21 injury, or other physical or mental condition by the prescription,  
22 administration, or dispensing of vaccine, medicine, surgery, or  
23 therapy.

24 (2) Use of a procedure for reproductive management.

25 (3) Monitoring and treatment of animal populations for diseases  
26 that have spread or demonstrate the potential to spread to humans.

27 (o) "Volunteer health practitioner" means a health practitioner  
28 who provides health or veterinary services, whether or not the  
29 practitioner receives compensation for those services. "Volunteer  
30 health practitioner" does not include a practitioner who receives  
31 compensation pursuant to a preexisting employment relationship  
32 with a host entity or affiliate that requires the practitioner to provide  
33 health services in this state, unless the practitioner is not a resident  
34 of this state and is employed by a disaster relief organization  
35 providing services in this state while an emergency declaration is  
36 in effect.

37 8599.52. This article applies to volunteer health practitioners  
38 registered with a registration system that complies with Section  
39 8599.54 and who provide health or veterinary services in this state  
40 for a host entity while an emergency declaration is in effect.

1 8599.53. (a) While an emergency declaration is in effect, the  
2 Office of Emergency Services may limit, restrict, or otherwise  
3 regulate all of the following:

- 4 (1) The duration of practice by volunteer health practitioners.  
5 (2) The geographical areas in which volunteer health  
6 practitioners may practice.  
7 (3) The types of volunteer health practitioners who may practice.  
8 (4) Any other matters necessary to coordinate effectively the  
9 provision of health or veterinary services during the emergency.

10 (b) An order issued pursuant to subdivision (a) may take effect  
11 immediately, without prior notice or comment, and is not a  
12 regulation within the meaning of the Administrative Procedure  
13 Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of  
14 Division 3).

15 (c) A host entity that uses volunteer health practitioners to  
16 provide health or veterinary services in this state shall do both of  
17 the following:

- 18 (1) Consult and coordinate its activities with the Office of  
19 Emergency Services to the extent practicable to provide for the  
20 efficient and effective use of volunteer health practitioners.  
21 (2) Comply with any laws other than this article relating to the  
22 management of emergency health or veterinary services.

23 8599.54. (a) To qualify as a volunteer health practitioner  
24 registration system, a system must do all of the following:

- 25 (1) Accept applications for the registration of volunteer health  
26 practitioners before or during an emergency.  
27 (2) Include information about the licensure and good standing  
28 of health practitioners that is accessible by authorized persons.  
29 (3) Be capable of confirming the accuracy of information  
30 concerning whether a health practitioner is licensed and in good  
31 standing before health services or veterinary services are provided  
32 under this article.

33 (4) Meet at least one of the following conditions:

34 (A) Be an emergency system for advance registration of  
35 volunteer healthcare practitioners established by a state and funded  
36 through the Health Resources Services Administration under  
37 Section 319I of the Public Health Services Act (42 U.S.C. Sec.  
38 247d-7b).

39 (B) Be a local unit consisting of trained and equipped emergency  
40 response, public health, and medical personnel formed pursuant

1 to Section 2801 of the Public Health Services Act (42 U.S.C. Sec.  
2 300hh).

3 (C) Be operated by one of the following:

4 (i) A disaster relief organization.

5 (ii) A licensing board or bureau established pursuant to Division  
6 2 (commencing with Section 500) of, or Chapter 12 (commencing  
7 with Section 7600) of Division 3 of, the Business and Professions  
8 Code.

9 (iii) A national or regional association of licensing boards or  
10 health practitioners.

11 (iv) A health facility that provides comprehensive inpatient and  
12 outpatient health care services, including a tertiary care and  
13 teaching hospital.

14 (v) A governmental entity.

15 (D) Be designated by the Office of Emergency Services as a  
16 registration system for purposes of this article.

17 (b) While an emergency declaration is in effect, the Office of  
18 Emergency Services, a person authorized to act on behalf of the  
19 office, or a host entity may confirm whether volunteer health  
20 practitioners utilized in this state are registered with a registration  
21 system that complies with subdivision (a). Confirmation is limited  
22 to obtaining identities of the practitioners from the system and  
23 determining whether the system indicates that the practitioners are  
24 licensed and in good standing.

25 (c) Upon request of a person in this state authorized to manage  
26 the emergency response, or a similarly authorized person in another  
27 state, a registration system located in this state shall notify the  
28 person of the identities of volunteer health practitioners and  
29 whether the practitioners are licensed and in good standing.

30 (d) A host entity is not required to use the services of a volunteer  
31 health practitioner even if the practitioner is registered with a  
32 registration system that indicates that the practitioner is licensed  
33 and in good standing.

34 8599.55. (a) While an emergency declaration is in effect, a  
35 volunteer health practitioner, registered with a registration system  
36 that complies with Section 8599.54 and licensed and in good  
37 standing in the state in which the practitioner's registration is based,  
38 may practice in this state to the extent authorized by this article as  
39 if the practitioner were licensed in this state.

(b) A volunteer health practitioner qualified under subdivision (a) is not entitled to the protections of this article if the practitioner is licensed in more than one state and any license of the practitioner is suspended, revoked, or subject to an order limiting or restricting practice privileges, or has been voluntarily terminated under threat of sanction.

8599.56. (a) For purposes of this section, the following terms have the following meanings:

(1) "Credentialing" means obtaining, verifying, and assessing the qualifications of a health practitioner to provide treatment, care, or services in or for a health facility.

(2) "Privileging" means the authorizing by an appropriate authority, such as a governing body, of a health practitioner to provide specific treatment, care, or services at a health facility subject to limits based on factors that include license, education, training, experience, competence, health status, and specialized skill.

(b) This article does not affect credentialing or privileging standards of a health facility and does not preclude a health facility from waiving or modifying those standards while an emergency declaration is in effect.

8599.57. (a) Subject to subdivisions (b) and (c), a volunteer health practitioner shall adhere to the scope of practice for a similarly licensed practitioner established by the licensing provisions, practice acts, or other laws of this state.

(b) Except as otherwise provided in subdivision (c), this article does not authorize a volunteer health practitioner to provide services that are outside the practitioner's scope of practice, even if a similarly licensed practitioner in this state would be permitted to provide the services.

(c) The applicable licensing board or bureau may modify or restrict the health services or veterinary services regulated by that body that volunteer health practitioners may provide pursuant to this article. An order under this subdivision may take effect immediately, without prior notice or comment, and is not a regulation within the meaning of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3).

1 (d) A host entity may restrict the health or veterinary services  
2 that a volunteer health practitioner may provide pursuant to this  
3 article.

4 (e) A volunteer health practitioner shall not be found to have  
5 engaged in unauthorized practice unless the practitioner has reason  
6 to know of any limitation, modification, or restriction under this  
7 section or that a similarly licensed practitioner in this state would  
8 not be permitted to provide the services. A volunteer health  
9 practitioner has reason to know of a limitation, modification, or  
10 restriction or that a similarly licensed practitioner in this state  
11 would not be permitted to provide a service if either:

12 (1) The practitioner knows the limitation, modification, or  
13 restriction exists or that a similarly licensed practitioner in this  
14 state would not be permitted to provide the service.

15 (2) From all the facts and circumstances known to the  
16 practitioner at the relevant time, a reasonable person would  
17 conclude that the limitation, modification, or restriction exists or  
18 that a similarly licensed practitioner in this state would not be  
19 permitted to provide the service.

20 (f) In addition to the authority granted by the laws of this state,  
21 other than this article, to regulate the conduct of health  
22 practitioners, a licensing board or other disciplinary authority in  
23 this state has the following powers and duties:

24 (1) It may impose administrative sanctions upon a health  
25 practitioner licensed in this state for conduct outside of this state  
26 in response to an out-of-state emergency.

27 (2) It may impose administrative sanctions upon a practitioner  
28 not licensed in this state for conduct in this state in response to an  
29 in-state emergency.

30 (3) It shall report any administrative sanctions imposed upon a  
31 practitioner licensed in another state to the appropriate licensing  
32 board or other disciplinary authority in any other state in which  
33 the practitioner is known to be licensed.

34 (g) In determining whether to impose administrative sanctions  
35 under subdivision (f), a licensing board or other disciplinary  
36 authority shall consider the circumstances in which the conduct  
37 took place, including any exigent circumstances, and the  
38 practitioner's scope of practice, education, training, experience,  
39 and specialized skill.

1 8599.57. (a) This article does not limit rights, privileges, or  
2 immunities provided to volunteer health practitioners by laws other  
3 than this article. Except as otherwise provided in subdivision (b),  
4 this article does not affect requirements for the use of health  
5 practitioners pursuant to the Emergency Management Assistance  
6 Compact.

7 (b) The Office of Emergency Services, pursuant to the  
8 Emergency Management Assistance Compact, may incorporate  
9 into the emergency forces of this state volunteer health practitioners  
10 who are not officers or employees of this state, a political  
11 subdivision of this state, or a municipality or other local  
12 government within this state.

13 8599.6. The Office of Emergency Services may promulgate  
14 rules to implement this article. In doing so, the office shall consult  
15 with and consider the recommendations of the entity established  
16 to coordinate the implementation of the Emergency Management  
17 Assistance Compact and shall also consult with and consider rules  
18 promulgated by similarly empowered agencies in other states to  
19 promote uniformity of application of this article and make the  
20 emergency response systems in the various states reasonably  
21 compatible

22 8599.61. In applying and construing this article, consideration  
23 shall be given to the need to promote uniformity of the law with  
24 respect to its subject matter among states that enact it.

**ASSEMBLY BILL**

**No. 106**

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**Introduced by Assembly Member Berg**

January 4, 2007

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An act to add Section 120392.9 to the Health and Safety Code, relating to immunizations.

LEGISLATIVE COUNSEL'S DIGEST

AB 106, as introduced, Berg. Immunizations.

Under existing law, the State Department of Health Services is responsible for the licensure and regulation of health facilities, including general acute care hospitals, as defined.

Under existing law, the department also has responsibilities relating to the prevention and control of communicable diseases by various means, including requiring immunization by vaccine for various populations.

Existing law requires a skilled nursing facility, an intermediate care facility, or a nursing facility, as defined, to offer immunizations for influenza and pneumococcal disease to its residents, aged 65 years or older, between October 1 and April 1 of each year, and to offer pneumococcal vaccine to all new admittees. The facility is required to be reimbursed the standard Medi-Cal rate for vaccines provided to Medi-Cal recipients, except under specified circumstances. Existing law requires the facility to obtain informed consent for the immunization services from the resident or, if the person lacks the capacity to make medical decisions, for the person legally authorized to make medical decisions on the resident's behalf.

This bill would require a general acute care hospital, pursuant to its own standardized procedures and if it has the vaccine in its possession,



each year, commencing October 1 to the following April 1, inclusive, to offer, prior to discharge, immunizations for influenza and pneumococcal disease to its inpatients, aged 65 years or older.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 120392.9 is added to the Health and
- 2 Safety Code, to read:
- 3 120392.9. Pursuant to its standardized procedures and if it has
- 4 the vaccine in its possession, each year, commencing October 1
- 5 to the following April 1, inclusive, a general acute care hospital,
- 6 as defined in subdivision (a) of Section 1250, shall offer, prior to
- 7 discharge, immunizations for influenza and pneumococcal disease
- 8 to inpatients, aged 65 years or older, based upon the latest
- 9 recommendation of the Advisory Committee on Immunization
- 10 Practices of the federal Centers for Disease Control and Prevention,
- 11 and the latest recommendations of appropriate entities for the
- 12 prevention, detection, and control of influenza outbreaks in
- 13 California general acute care hospitals.

**ASSEMBLY BILL**

**No. 329**

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**Introduced by Assembly Member Nakanishi**

February 13, 2007

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An act relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 329, as introduced, Nakanishi. Chronic diseases: telemedicine.

Existing law, the Medical Practice Act, regulates the practice of telemedicine, defined as the practice of health care delivery, diagnosis, consultation, treatment, transfer of medical data, and education using interactive audio, video, or data communications.

This bill would declare the intent of the Legislature to enact legislation enabling the Medical Board of California to bring all interested parties together to discuss the various means of delivering health care to those with chronic diseases using telemedicine, and requiring the group to make recommendations to the Legislature on or before January 1, 2009.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. It is the intent of the Legislature to enact  
2     legislation that would enable the Medical Board of California to  
3     bring all interested parties together to discuss the various means  
4     of delivering health care to those with chronic diseases, using best  
5     practices in a telemedicine model in order to reach all Californians,  
6     and that would require the group to make recommendations

- 1 regarding its findings to the Legislature on or before January 1,
- 2 2009.

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**ASSEMBLY BILL**

**No. 374**

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**Introduced by Assembly Members Berg, Levine, and Nunez**  
**(Principal coauthor: Assembly Member Feuer)**  
**(Coauthors: Assembly Members Bass, Beall, Brownley, De Leon,**  
**DeSaulnier, Dymally, Eng, Evans, Huffman, Jones, Karnette,**  
**Laird, Leno, Ma, Saldana, and Wolk)**  
**(Coauthors: Senators Calderon, Kuehl, Lowenthal, Oropeza, Romero,**  
**Steinberg, and Wiggins)**

February 15, 2007

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An act to add Chapter 3.95 (commencing with Section 7195) to Part 1 of Division 7 of the Health and Safety Code, relating to death.

LEGISLATIVE COUNSEL'S DIGEST

AB 374, as introduced, Berg. California Compassionate Choices Act.

Existing law provides for the licensure and regulation of health facilities by the State Department of Health Services. Effective July 1, 2007, responsibility for the administration of the abovementioned provisions will be transferred to the State Department of Public Health.

Existing law authorizes an adult to give an individual health care instruction and to appoint an attorney to make health care decisions for that individual in the event of his or her incapacity pursuant to a power of attorney for health care.

This bill would enact the California Compassionate Choices Act, which would authorize an adult who meets certain qualifications, and who has been determined by his or her attending physician to be suffering from a terminal disease, as defined, to make a request for medication prescribed pursuant to this bill to provide comfort with an

assurance of peaceful dying if suffering becomes unbearable. The bill would establish procedures for making these requests.

This bill would further provide that no provision in a contract, will, or other agreement, or in a health care service plan contract, policy of disability insurance, or health benefit plan contract, shall be valid to the extent it would affect whether a person may make or rescind a request for the above-described medication. The bill would prohibit the sale, procurement, or issuance of any life, health, or accident insurance or annuity policy, or the rate charged for any policy, from being conditioned upon or affected by the request. The bill would require that nothing in its provisions be construed to authorize ending a patient's life by lethal injection, mercy killing, or active euthanasia, and would provide that action taken in accordance with the act shall not constitute suicide or homicide.

This bill would provide immunity from civil or criminal liability or professional disciplinary action for participating in good faith compliance with the act. The bill would provide that no health care provider is under any duty to participate in providing to a qualified patient medication to end that patient's life and would authorize a general acute care hospital to prohibit a licensed physician from carrying out a patient's request under this act on the premises of the hospital if the hospital has notified the licensed physician of its policy regarding this act.

This bill would require the State Department of Public Health to adopt regulations regarding the collection of information to determine the use of and compliance with the act, and would require the department to annually review a sample of certain records and make a statistical report of the information collected.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Chapter 3.95 (commencing with Section 7195)
- 2 is added to Part 1 of Division 7 of the Health and Safety Code, to
- 3 read:

1 CHAPTER 3.95. CALIFORNIA COMPASSIONATE CHOICES ACT

2  
3 Article 1. General Provisions

4  
5 7195. (a) The Legislature believes that dying patients should  
6 have choices throughout the continuum of palliative care and that  
7 much must be done to improve access to hospice care and pain  
8 management. Hospice and effective palliative care successfully  
9 assist many thousands of terminally ill patients to die with dignity  
10 and without pain, and the Legislature hopes that all patients  
11 considering the procedures available under this chapter will  
12 properly consider other options, including hospice care and  
13 effective pain management. The Legislature finds that medical  
14 studies have shown that between 5 and 10 percent of dying patients  
15 experience severe pain and suffering that cannot be palliated by  
16 the best hospice or comfort care. The Legislature finds that in  
17 response to the Death with Dignity Act in the State of Oregon, that  
18 the referrals to hospice increased significantly. In addition, doctors  
19 significantly increased the use of morphine and other strong pain  
20 medications, thus improving the end-of-life care for more dying  
21 patients.

22 (b) (1) It is the intent of the Legislature that the personal and  
23 autonomous choice of dying patients regarding the time and manner  
24 of their death provided under this chapter be viewed as but one of  
25 several end-of-life options for dying patients.

26 (2) It is the intent of the Legislature that this chapter be strictly  
27 construed and not expanded in any manner. The restrictions and  
28 safeguards in the provisions of this chapter are based on the intent  
29 of the Legislature to balance the personal and autonomous choice  
30 of dying patients regarding the time and manner of their death and  
31 the Legislature's goal of providing safeguards to ensure that there  
32 are not instances of a coerced, unwanted, or early death by a  
33 vulnerable dying patient.

34 (3) The Legislature finds and declares that historically persons  
35 with disabilities have been subject to discrimination in the  
36 provision of medical care and have been treated by some as though  
37 their lives were less valuable or worthy of maintenance than those  
38 without disabilities. The Legislature finds that this discriminatory  
39 conduct is both illegal and reprehensible.

1 (4) It is the intent of the Legislature that a disability or age alone  
2 is not a reason for a patient to be a qualified patient as defined in  
3 subdivision (l) of Section 7195.1. Any disabled individual or  
4 elderly person, and any physician who is the attending physician  
5 to these individuals, must strictly comply with all of the provisions  
6 of this chapter. Strict and rigorous attention must be evidenced in  
7 distinguishing chronic conditions, that are not eligible conditions  
8 under this chapter, and terminal illnesses, which are eligible, as  
9 described in this chapter.

10 (5) It is the intent of the Legislature for the physician discussions  
11 and written patient documents in this chapter to be translated in a  
12 manner that is consistent with Section 7295.2 of the Government  
13 Code, Section 10133.8 of the Insurance Code, and Section 1367.04  
14 if the otherwise qualified patient is non-English proficient and  
15 meets the criteria of those sections.

16 7195.1. For purposes of this chapter the following definitions  
17 shall apply:

18 (a) "Adult" means an individual who is 18 years of age or older.

19 (b) "Attending physician" means the physician who has primary  
20 responsibility for the care of the patient and for treatment of the  
21 patient's terminal disease.

22 (c) "Capable" means that in the opinion of the patient's attending  
23 physician or consulting physician, a patient has the ability to make  
24 and communicate health care decisions to health care providers,  
25 including communication through persons familiar with the  
26 patient's manner of communicating, if those persons are available.

27 (d) "Consulting physician" means a physician, other than the  
28 attending physician, who is qualified by specialty or experience  
29 to make a professional diagnosis and prognosis regarding the  
30 patient's disease.

31 (e) "Counseling" means a consultation between a state licensed  
32 psychiatrist or psychologist and a patient for the purpose of  
33 determining whether the patient is suffering from a psychiatric or  
34 psychological disorder, or depression causing impaired judgment.

35 (f) "Health care provider" means a person licensed, certified,  
36 or otherwise authorized or permitted by the law of this state to  
37 administer health care in the ordinary course of business or practice  
38 of a profession, and includes a licensed health care facility.

39 (g) (1) "Health care facility" means any health facility described  
40 in Section 1250.

(2) "Hospice" means a comprehensive, interdisciplinary program of medical and socially supportive care delivered to patients with a terminal disease in order to palliate their symptoms and pain since the patient's condition is no longer amenable to curative therapies and for whom the primary therapeutic goal is comfort and dignity at the end of life.

(h) "Informed decision" means a decision, made by a qualified patient, to request and obtain a prescription to end his or her life in a humane and dignified manner, that is not based on coercion by the patient's next-of-kin or any other third parties, is based on an appreciation of the relevant facts, and is made after being fully informed by the attending physician of all of the following:

(1) His or her medical diagnosis.

(2) His or her prognosis.

(3) The potential risk associated with taking the medication to be prescribed.

(4) The probable result of taking the medication to be prescribed.

(5) The feasible alternatives, as provided in paragraph (5) of subdivision (b) of Section 7196, including, but not limited to, comfort care, hospice care, and pain control.

(i) "Medically confirmed" means the medical opinion of the attending physician has been confirmed by a consulting physician who has examined the patient and the patient's relevant medical records.

(j) "Medication" means medication prescribed pursuant to this chapter to provide comfort with an assurance of peaceful dying if suffering becomes unbearable.

(k) "Patient" means a person who is under the care of a physician.

(l) "Physician" means a doctor of medicine or osteopathy licensed to practice medicine by the Medical Board of California.

(m) "Qualified patient" means a capable adult who is a resident of California and has satisfied the requirements of this chapter in order to obtain a prescription for medication.

(n) "Resident" means a person who has lived in a principal place of residence in the State of California for six months or more.

(o) "Terminal disease" means an incurable and irreversible disease that has been medically confirmed and will, within reasonable medical judgment, produce death within six months.



1 7195.3. An adult who is capable, is a resident of California,  
2 has been determined by the attending physician and a consulting  
3 physician to be suffering from a terminal disease, and who has  
4 voluntarily expressed his or her wish to obtain life-ending  
5 medication to his or her attending physician shall, in addition to  
6 the other requirements of this chapter, make both an oral and a  
7 written request for medication in accordance with this chapter in  
8 order to be eligible for qualification under this chapter.

9 7195.5. (a) A valid written request for medication under this  
10 chapter shall be in substantially the form prescribed by Section  
11 7199, signed and dated by the patient and witnessed by at least  
12 two individuals who, in the presence of the patient, attest that to  
13 the best of their knowledge and belief the patient is capable, acting  
14 voluntarily, and is not being coerced to sign the request.

15 (b) Both of the witnesses shall be a person who is not any of  
16 the following:

17 (1) A relative of the patient by blood, marriage, or adoption.

18 (2) A person who at the time the request is signed would be  
19 entitled to any portion of the estate of the qualified patient upon  
20 death under any will or by operation of law.

21 (3) An owner, operator, or employee of a health care facility  
22 where the qualified patient is receiving medical treatment or is a  
23 resident.

24 (c) The patient's attending physician at the time the request is  
25 signed shall not be a witness.

26

27

## Article 2. Safeguards

28

29 7196. Upon being voluntarily informed by a qualified patient  
30 that the patient wishes to receive medication in accordance with  
31 this chapter, the attending physician shall do all of the following:

32 (a) Make the initial determination of whether a patient has a  
33 terminal disease, is capable, and has made the request voluntarily.

34 (b) Inform the patient of all of the following:

35 (1) His or her medical diagnosis.

36 (2) His or her prognosis.

37 (3) The potential risks associated with taking the medication to  
38 be prescribed.

39 (4) The probable result of taking the medication to be prescribed.

(5) The feasible alternatives, including, but not limited to, comfort care, hospice care, and pain control. This disclosure must be provided in writing to the patient, and shall include, but not be limited to, contact information about locally based providers of comfort and hospice care.

(c) Refer the patient to a consulting physician for medical confirmation of the diagnosis, and for a determination that the patient is capable and acting voluntarily.

(d) Refer the patient for counseling, if appropriate pursuant to Section 7196.2.

(e) Request that the patient notify next of kin.

(f) Inform the patient that he or she has an opportunity to rescind the request at any time and in any manner, and offer the patient an opportunity to rescind at the end of the 15-day waiting period described in Section 7196.5.

(g) Verify, immediately prior to writing the prescription for medication under this chapter, that the patient is making an informed decision.

(h) Fulfill the medical record documentation requirements of Section 7196.8.

(i) Ensure that all appropriate steps are carried out in accordance with this chapter prior to writing a prescription for medication.

7196.1. Before a patient is qualified under this chapter, a consulting physician shall examine the patient and his or her relevant medical records and shall, in writing, confirm, the attending physician's diagnosis and that the patient is suffering from a terminal disease and verify that the patient is capable, is acting voluntarily, and has made an informed decision.

7196.2. If, in the opinion of the attending physician or the consulting physician, a patient may be suffering from a psychiatric or psychological disorder that impairs judgment or from depression or medication that impairs judgment, or the patient is not a hospice patient, the attending physician or consulting physician shall require the patient to undergo counseling as specified in subdivision (e) of Section 7195.1. In this case, no medication shall be prescribed unless the patient first undergoes the requisite consultation or counseling and until the person performing the counseling determines that the patient is not suffering from a psychiatric or psychological disorder that impairs judgment, or from impaired judgment caused by depression or medication.

1 7196.3. No person shall receive a prescription for medication  
2 unless he or she has made an informed decision as defined in  
3 subdivision (h) of Section 7195. Immediately prior to writing a  
4 prescription for medication in accordance with this chapter, the  
5 attending physician shall verify that the patient is making an  
6 informed decision.

7 7196.4. The attending physician shall ask the patient to notify  
8 the patient's next of kin of his or her request for medication  
9 pursuant to this chapter. A patient who declines or is unable to  
10 notify next of kin shall not have his or her request denied for that  
11 reason.

12 7196.5. In order to receive a prescription for medication, a  
13 qualified patient shall have made an oral request and a written  
14 request, and reiterate the oral request to his or her attending  
15 physician no less than 15 days after making the initial oral request.  
16 At the time the qualified patient makes his or her second oral  
17 request, the attending physician shall offer the patient an  
18 opportunity to rescind the request.

19 7196.6. A patient may rescind his or her request at any time  
20 and in any manner without regard to his or her mental state. No  
21 prescription for medication under this chapter may be written  
22 without the attending physician offering the qualified patient an  
23 opportunity to rescind the request.

24 7196.7. No less than 15 days shall elapse between the patient's  
25 initial oral request and the writing of a prescription under this  
26 chapter. No less than 48 hours shall elapse between the patient's  
27 written request and the writing of a prescription under this chapter.

28 7196.8. The following shall be documented or filed in the  
29 patient's medical record:

30 (a) All oral requests by a patient for medication.

31 (b) All written requests by a patient for medication.

32 (c) The attending physician's diagnosis and prognosis, and his  
33 or her determination that the patient is capable, acting voluntarily,  
34 and has made an informed decision.

35 (d) The consulting physician's diagnosis and prognosis, and his  
36 or her verification that the patient is capable, acting voluntarily,  
37 and has made an informed decision.

38 (e) A report of the outcome and determinations made during  
39 counseling, if performed.

1 (f) The attending physician's offer to the patient to rescind his  
2 or her request at the time of the patient's second oral request  
3 pursuant to Section 7196.5.

4 (g) The attending physician's discussion with the patient of  
5 feasible alternatives, including, but not limited to, hospice care,  
6 comfort care, and pain control.

7 (h) A note by the attending physician indicating that all the  
8 requirements of this chapter have been met and indicating the steps  
9 taken to carry out the request, including a notation of the  
10 medication prescribed.

11 7196.9. Only requests made by California residents under this  
12 chapter shall be granted.

13 7197.1. (a) The department shall adopt regulations regarding  
14 requirements for the collection of information to determine the  
15 use of and compliance with this chapter. The information collected  
16 shall not be a public record and shall not be made available for  
17 inspection by the public.

18 (b) The department shall generate and make available to the  
19 public an annual statistical report of information collected,  
20 disaggregated by age, gender, race, ethnicity, and language spoken  
21 at home, pursuant to subdivision (a).

22 (c) The department shall annually review a sample of records  
23 maintained pursuant to this chapter.

24 7197.3. (a) No provision in a contract, will, or other agreement,  
25 whether written or oral, to the extent the provision would affect  
26 whether a person may make or rescind a request for medication,  
27 shall be valid.

28 (b) No obligation owing under any contract in existence on or  
29 before January 1, 2008, shall be conditioned or affected by the  
30 making or rescinding of a request by a person for medication.

31 (c) No health care service plan contract, as defined in  
32 subdivision (r) of Section 1345, shall be conditioned upon or  
33 affected by the making or rescinding of a request by a person for  
34 medication. Any such contract provision shall be invalid.

35 (d) No provision of a policy of disability insurance or a health  
36 benefit plan contract that provides coverage for hospital, medical,  
37 or surgical expenses pursuant to Part 2 (commencing with Section  
38 10110) of Division 2 of the Insurance Code shall be conditioned  
39 upon or affected by the making or rescinding of a request by a

1 person to end his or her life in a humane and dignified manner.  
2 Any such policy provision shall be invalid.

3 7197.5. The sale, procurement, or issuance of any life, health,  
4 or accident insurance or annuity policy or the rate charged for any  
5 policy shall not be conditioned upon or affected by the making or  
6 rescinding of a request by a person for medication. A qualified  
7 patient's act of ingesting medication to end his or her life in a  
8 humane and dignified manner in accordance with this chapter shall  
9 not have an effect upon a life, health, or accident insurance or  
10 annuity policy.

11 7197.7. Nothing in this chapter shall be construed to authorize  
12 a physician or any other person to end a patient's life by lethal  
13 injection, mercy killing, or active euthanasia. The patient must  
14 self-administer the medication provided under this chapter. Actions  
15 taken in accordance with this chapter shall not, for any purpose,  
16 constitute suicide, assisted suicide, mercy killing, or homicide,  
17 under the law. Every state agency, department, or office that  
18 prepares or issues a document or report that describes or refers to  
19 the medical practice described in this chapter shall use the phrase  
20 "aid in dying" to describe or reference the medical practice in the  
21 document or report.

22 7197.8. Nothing in this chapter shall affect the authority of a  
23 coroner or medical examiner to investigate a death.

24

### 25 Article 3. Immunities and Liabilities

26

27 7198. Except as provided in Section 7198.5:

28 (a) Notwithstanding any other provision of law, no person shall  
29 be subject to civil or criminal liability or professional disciplinary  
30 action for participating in good faith compliance with this chapter.  
31 This includes being present when a qualified patient takes the  
32 prescribed medication to end his or her life in a humane and  
33 dignified manner.

34 (b) No professional organization or association, or health care  
35 provider, may subject a person to censure, discipline, suspension,  
36 loss of license, loss of privileges, loss of membership, or other  
37 penalty for participating or refusing to participate in good faith  
38 compliance with this chapter.

39 (c) No request by a patient for or provision by an attending  
40 physician of medication in good faith compliance with this chapter

1 shall constitute neglect for any purpose of law or provide the sole  
2 basis for the appointment of a guardian or conservator.

3 (d) No health care provider shall be under any duty, whether  
4 by contract, by statute, or by any other legal requirement to  
5 participate in the provision to a qualified patient of medication. If  
6 a health care provider is unable or unwilling to carry out a patient's  
7 request under this chapter, and the patient transfers his or her care  
8 to a new health care provider, the prior health care provider shall  
9 transfer, upon request, a copy of the patient's relevant medical  
10 records to the new health care provider.

11 (e) Notwithstanding any other provision of law, a general acute  
12 care hospital, as defined in subdivision (a) of Section 1250, may  
13 prohibit a licensed physician from carrying out a patient's request  
14 under this chapter on the premises of the hospital if the hospital  
15 has notified the licensed physician of its policy regarding this  
16 chapter.

17 7198.5. (a) Nothing in this chapter limits civil or criminal  
18 liability resulting from other negligent conduct or intentional  
19 misconduct by any person.

20 (b) The penalties in this chapter do not preclude criminal  
21 penalties applicable under other law for conduct that is inconsistent  
22 with this chapter.

23  
24 Article 4. Severability

25  
26 7198.9. Any section of this chapter that is held invalid as to  
27 any person or circumstance shall not affect the application of any  
28 other section of this chapter that can be given full effect without  
29 the invalid section or portion thereof.

30  
31 Article 5. Form of the Request

32  
33 7199. A request for a medication as authorized by this chapter  
34 shall be in substantially the following form:

35  
36  
37 REQUEST FOR MEDICATION  
38 TO END MY LIFE IN A HUMANE AND DIGNIFIED MANNER  
39 I, \_\_\_\_\_, am an adult of sound mind.

1 I am suffering from \_\_\_\_\_, which my attending physician has determined  
2 is a terminal disease which will, within reasonable medical judgment, likely  
3 lead to my death within six months, and which has been medically confirmed  
4 by a consulting physician.

5 I have been fully informed of my diagnosis, prognosis, the nature of  
6 the medication to be prescribed, and the potential associated risks, the expected  
7 result, and the feasible alternatives, including comfort care, hospice care, and  
8 pain control.

9 I request that my attending physician prescribe medication that will  
10 allow me to hasten the end of my life in a humane and dignified manner.

11  
12 INITIAL ONE:

13 \_\_\_\_\_ I have informed my family of my decision and taken their opinions  
14 into consideration.

15 \_\_\_\_\_ I have decided not to inform my family of my decision.

16 \_\_\_\_\_ I have no family to inform of my decision.

17 I understand that I have the right to rescind this request at any time.

18 I understand the full import of this request, and I expect to die when I take  
19 the medication to be prescribed.

20 I make this request voluntarily and without reservation, and I accept full  
21 moral responsibility for my actions.

22 Signed: \_\_\_\_\_

23 Dated: \_\_\_\_\_

24  
25 DECLARATION OF WITNESSES

26 We declare that the person signing this request:

27 (a) Is personally known to us or has provided proof of identity;

28 (b) Signed this request in our presence;

29 (c) Appears to be of sound mind and not under duress, fraud, or undue  
30 influence;

31 (d) Is not a patient for whom either of us is the attending physician.

32 \_\_\_\_\_ Witness 1/Date

33 \_\_\_\_\_ Witness 2/Date

34  
35 NOTE: Neither witness shall be a relative (by blood, marriage, or adoption)  
36 of the person signing this request. Neither witness shall be entitled to any

1 portion of the person's estate upon death. Neither witness shall own, operate,  
2 or be employed at a health care facility where the person is a patient or resident.  
3

O



**ASSEMBLY BILL**

**No. 436**

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**Introduced by Assembly Member Salas**

February 16, 2007

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An act to add Section 130316.5 to the Health and Safety Code, relating to health records.

LEGISLATIVE COUNSEL'S DIGEST

AB 436, as introduced, Salas. Health Insurance Portability and Accountability Act of 2001.

Existing federal law, the Health Insurance Portability and Accountability Act of 1996 (HIPAA), establishes certain requirements relating to the provision of health insurance, and the protection of privacy of individually identifiable health information. Existing law, the Health Insurance Portability and Accountability Implementation Act of 2001, requires the Office of HIPAA Implementation, established by the Governor's office within the California Health and Human Services Agency, to perform specified activities required for compliance with this federal act. These provisions will be repealed on January 1, 2008.

This bill would, notwithstanding any other provision of law or regulation, prohibit any entity subject to HIPAA from disclosing a patient's medical information without first receiving that patient's written authorization.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 130316.5 is added to the Health and
- 2 Safety Code, to read:
- 3 130316.5. Notwithstanding any other provision of law or
- 4 regulation, no entity subject to HIPAA shall disclose a patient's
- 5 medical information without first obtaining that patient's written
- 6 authorization.

O

**ASSEMBLY BILL**

**No. 519**

**Introduced by Assembly Member Mendoza**

February 21, 2007

An act to add Section 52052.3 to the Education Code, relating to pupil achievement.

LEGISLATIVE COUNSEL'S DIGEST

AB 519, as introduced, Mendoza. Pupil achievement: Academic Performance Index.

Existing law requires the Superintendent of Public Instruction, with approval of the State Board of Education, to develop the Academic Performance Index (API), which consists of a variety of indicators currently reported to the State Department of Education, to track the achievement of schools and their pupils.

This bill would require the department to prepare and submit to the Legislature a plan to include dropout data in the API, develop a definition of the term "dropout" for that purpose, and include statistics and data in the API regarding the availability at public high schools of prerequisite courses required for admission to the California State University and the University of California.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 52052.3 is added to the Education Code,
- 2 to read:
- 3 52052.3. The department shall do all of the following:

- 1 (a) Prepare and submit to the Legislature a plan to include
- 2 dropout data in the Academic Performance Index (API).
- 3 (b) Develop a definition of the term “dropout” for purposes of
- 4 subdivision (a).
- 5 (c) Include statistics and data in the API regarding the
- 6 availability at public high schools of prerequisite courses required
- 7 for admission to the California State University and the University
- 8 of California.

**ASSEMBLY BILL**

**No. 555**

---

**Introduced by Assembly Member Nakanishi**

February 21, 2007

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An act relating to the healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 555, as introduced, Nakanishi. Healing arts: medical records.

Existing law, the Medical Practice Act, creates the Medical Board of California and makes it responsible for issuing a physician's and surgeon's certificate to qualified applicants and for regulating the practice of physicians and surgeons. Under existing law, a general acute care hospital is required to maintain a medical records system that organizes the records for each patient under a unique identifier but is not required to maintain the records in an electronic format.

This bill would express the Legislature's intent to require the board to work with interested parties to develop an electronic system that would allow any physician and surgeon in this state to access the medical records of the patient he or she requires in order to treat that patient.

Vote: -majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. It is the intent of the Legislature to require the
- 2 Medical Board of California to work with all interested parties to
- 3 develop an electronic system that would allow any physician and

- 1 surgeon in the state to access the medical records of the patient
- 2 that the physician and surgeon requires in order to treat that patient.

O

**ASSEMBLY BILL**

**No. 1302**

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**Introduced by Assembly Member Horton**

February 23, 2007

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An act relating to health care.

LEGISLATIVE COUNSEL'S DIGEST

AB 1302, as introduced, Horton. Health Insurance Portability and Accountability Act.

Existing law, the Health Insurance Portability and Accountability Implementation Act of 2001, sets forth processes for the implementation of the federal Health Insurance Portability and Accountability Act (HIPAA) in this state. Under existing law, this act will be repealed January 1, 2008, unless a later enacted statute, that is enacted before January 1, 2008, deletes or extends that date.

This bill would express the Legislature's intent to enact legislation relating to HIPPA.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. It is the intent of the Legislature to enact
- 2 legislation relating to the federal Health Insurance Portability and
- 3 Accountability Act.

O

## Assembly Concurrent Resolution

No. 9

Introduced by Assembly Member Dymally

January 10, 2007

Assembly Concurrent Resolution No. 9—Relative to substance abuse.

### LEGISLATIVE COUNSEL'S DIGEST

ACR 9, as introduced, Dymally. Legislative Task Force on Substance Abuse.

This measure would establish, until November 30, 2008, the Legislative Task Force on Substance Abuse. The measure would require the task force to report findings and recommendations on specified issues to the Governor and to the Legislature no later than September 30, 2008.

Fiscal committee: yes.

1 WHEREAS, Substance abuse is the excessive use of a substance,  
2 especially alcohol or a drug; and

3 WHEREAS, Alcohol and drug use and abuse are growing  
4 problems in the United States and California; and

5 WHEREAS, According to the National Institutes of Health's  
6 National Institute on Drug Abuse (NIDA), drug abuse is a major  
7 public health problem that impacts society on multiple levels, and  
8 substance abuse costs our nation more than \$484 billion per year;  
9 and

10 WHEREAS, According to the NIDA, many of America's top  
11 medical problems can be directly linked to drug abuse and many  
12 of America's top social problems also relate to or impact drug  
13 abuse; and



1 WHEREAS, According to the State Department of Alcohol and  
2 Drug Programs, alcohol and other drug abuse are major factors in  
3 chronic disease, infectious disease, hospital emergency room visits,  
4 newborn health problems, and violence and auto accidents; and

5 WHEREAS, In California, the estimated 2005 cost to society  
6 of alcohol and other drug abuse was over \$44 billion. This estimate  
7 took into consideration loss of productivity, health care costs,  
8 prevention and treatment costs, criminal justice costs and losses  
9 due to crime; now, therefore, be it

10 *Resolved by the Assembly of the State of California, the Senate*  
11 *thereof concurring*, That the Legislative Task Force on Substance  
12 Abuse is hereby established to study and investigate issues,  
13 including identifying the public health implications associated  
14 with substance abuse. Further, the task force shall determine both  
15 private and public sector roles in providing screening, and treatment  
16 benefits; and it be further

17 *Resolved*, That the task force shall identify gaps in programs,  
18 services, and funding related to substance abuse and provide  
19 recommendations to close the identified gaps. Specifically, the  
20 task force shall identify gaps in programs and services related to  
21 the education and treatment of children, adolescents, transitional  
22 youth, and adults with substance abuse problems; and be it further

23 *Resolved*, That the task force shall provide recommendations  
24 for the planning of a comprehensive and integrated continuum of  
25 programs, services, and funding that will be required to address  
26 current substance abuse epidemic; and be it further

27 *Resolved*, That the task force shall identify the public health  
28 implications of substance abuse and make recommendations to  
29 address these public health implications; and be it further

30 *Resolved*, That the task force shall consist of 11 members, six  
31 of whom shall be members appointed by the Speaker of the  
32 Assembly and five of whom shall be appointed by the Senate  
33 Committee on Rules; and be it further

34 *Resolved*, That the task force shall include representatives from  
35 the State Department of Alcohol and Drug Programs, the State  
36 Department of Mental Health, the State Department of Public  
37 Health, the State Department of Health Care Services, the  
38 California State Association of Counties, two representatives of  
39 the County Alcohol and Drug Program Administrators, one from  
40 an urban area and another from a rural area, two health care

1 providers, a law enforcement official, and a consumer; and be it  
2 further

3 *Resolved*, That the task force shall be under the direction of a  
4 chair, selected from among its members and appointed by the  
5 Speaker of the Assembly, and a vice chair, selected from among  
6 its members and appointed by the Senate Committee on Rules;  
7 and be it further

8 *Resolved*, That the task force shall submit one or more reports  
9 to the Legislature and to the Governor, including its findings and  
10 recommendations, by no later than, September 30, 2008; and be  
11 it further

12 *Resolved*, That the task force is authorized to act until November  
13 30, 2008; and be it further

14 *Resolved*, That the task force shall seek funding, technical  
15 assistance, and other resources from foundations and other  
16 organizations as long as that support would not pose any conflict  
17 of interest and would be deemed as consistent with the goals and  
18 objectives of the task force; and be it further

19 *Resolved*, That the work of the task force may be supported by  
20 legislative staff and services as determined by the respective rules  
21 committees; and be it further

22 *Resolved*, That the task force and its members shall have and  
23 exercise all the rights, duties, and powers conferred upon  
24 commissions and their members by the Joint Rules of the Senate  
25 and the Assembly, as they are adopted and amended from time to  
26 time, and the pertinent provisions of the Joint Rules of the Senate  
27 and the Assembly shall be applicable to this task force and its  
28 members; and be it further

29 *Resolved*, That the Chief Clerk of the Assembly transmit copies  
30 of this resolution to the author for appropriate distribution.

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**Introduced by Senator Aanestad**

February 14, 2007

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An act to amend Section 1250 of the Health and Safety Code, relating to health facilities.

## LEGISLATIVE COUNSEL'S DIGEST

SB 254, as introduced, Aanestad. Health facilities: licensure.

Existing law provides for the licensure and regulation of health facilities.

This bill would make a technical, nonsubstantive change to these provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. Section 1250 of the Health and Safety Code is  
2     amended to read:  
3     1250. As used in this chapter, "health facility" means any  
4     facility, place, or building that is organized, maintained, and  
5     operated for the diagnosis, care, prevention, and treatment of  
6     human illness, physical or mental, including convalescence and  
7     rehabilitation and including care during and after pregnancy, or  
8     for any one or more of these purposes, for one or more persons,  
9     to which the persons are admitted for a 24-hour stay or longer, and  
10    includes the following types:  
11    (a) "General acute care hospital" means a health facility having  
12    a duly constituted governing body with overall administrative and  
13    professional responsibility and an organized medical staff that

1 provides 24-hour inpatient care, including the following basic  
2 services: medical, nursing, surgical, anesthesia, laboratory,  
3 radiology, pharmacy, and dietary services. A general acute care  
4 hospital may include more than one physical plant maintained and  
5 operated on separate premises as provided in Section 1250.8. A  
6 general acute care hospital that exclusively provides acute medical  
7 rehabilitation center services, including at least physical therapy,  
8 occupational therapy, and speech therapy, may provide for the  
9 required surgical and anesthesia services through a contract with  
10 another acute care hospital. In addition, a general acute care  
11 hospital that, on July 1, 1983, provided required surgical and  
12 anesthesia services through a contract or agreement with another  
13 acute care hospital may continue to provide these surgical and  
14 anesthesia services through a contract or agreement with an acute  
15 care hospital. The general acute care hospital operated by the State  
16 Department of Developmental Services at Agnews Developmental  
17 Center may, until June 30, 2007, provide surgery and anesthesia  
18 services through a contract or agreement with another acute care  
19 hospital. Notwithstanding the requirements of this subdivision, a  
20 general acute care hospital operated by the Department of  
21 Corrections and Rehabilitation or the Department of Veterans  
22 Affairs may provide surgery and anesthesia services during normal  
23 weekday working hours, and not provide these services during  
24 other hours of the weekday or on weekends or holidays, if the  
25 general acute care hospital otherwise meets the requirements of  
26 this section.

27 A "general acute care hospital" includes a "rural general acute  
28 care hospital." However, a "rural general acute care hospital" shall  
29 not be required by the department to provide surgery and anesthesia  
30 services. A "rural general acute care hospital" shall meet either of  
31 the following conditions:

32 (1) The hospital meets criteria for designation within peer group  
33 six or eight, as defined in the report entitled Hospital Peer Grouping  
34 for Efficiency Comparison, dated December 20, 1982.

35 (2) The hospital meets the criteria for designation within peer  
36 group five or seven, as defined in the report entitled Hospital Peer  
37 Grouping for Efficiency Comparison, dated December 20, 1982,  
38 and has no more than 76 acute care beds and is located in a census  
39 dwelling place of 15,000 or less population according to the 1980  
40 federal census.

(b) "Acute psychiatric hospital" means a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical staff that provides 24-hour inpatient care for mentally disordered, incompetent, or other patients referred to in Division 5 (commencing with Section 5000) or Division 6 (commencing with Section 6000) of the Welfare and Institutions Code, including the following basic services: medical, nursing, rehabilitative, pharmacy, and dietary services.

(c) "Skilled nursing facility" means a health facility that provides skilled nursing care and supportive care to patients whose primary need is for availability of skilled nursing care on an extended basis.

(d) "Intermediate care facility" means a health facility that provides inpatient care to ambulatory or nonambulatory patients who have recurring need for skilled nursing supervision and need supportive care, but who do not require availability of continuous skilled nursing care.

(e) "Intermediate care facility/developmentally disabled habilitative" means a facility with a capacity of 4 to 15 beds that provides 24-hour personal care, habilitation, developmental, and supportive health services to 15 or fewer developmentally disabled persons who have intermittent recurring needs for nursing services, but have been certified by a physician and surgeon as not requiring availability of continuous skilled nursing care.

(f) "Special hospital" means a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical or dental staff that provides inpatient or outpatient care in dentistry or maternity.

(g) "Intermediate care facility/developmentally disabled" means a facility that provides 24-hour personal care, habilitation, developmental, and supportive health services to developmentally disabled clients whose primary need is for developmental services and who have a recurring but intermittent need for skilled nursing services.

(h) "Intermediate care facility/developmentally disabled—nursing" means a facility with a capacity of 4 to 15 beds that provides 24-hour personal care, developmental services, and nursing supervision for developmentally disabled persons who have intermittent recurring needs for skilled nursing care but have been certified by a physician and surgeon as not requiring

1 continuous skilled nursing care. The facility shall serve medically  
2 fragile persons who have developmental disabilities or demonstrate  
3 significant developmental delay that may lead to a developmental  
4 disability if not treated.

5 (i) (1) "Congregate living health facility" means a residential  
6 home with a capacity, except as provided in paragraph (4), of no  
7 more than 12 beds, that provides inpatient care, including the  
8 following basic services: medical supervision, 24-hour skilled  
9 nursing and supportive care, pharmacy, dietary, social, recreational,  
10 and at least one type of service specified in paragraph (2). The  
11 primary need of congregate living health facility residents shall  
12 be for availability of skilled nursing care on a recurring,  
13 intermittent, extended, or continuous basis. This care is generally  
14 less intense than that provided in general acute care hospitals but  
15 more intense than that provided in skilled nursing facilities.

16 (2) Congregate living health facilities shall provide one of the  
17 following services:

18 (A) Services for persons who are mentally alert, physically  
19 disabled persons, who may be ventilator dependent.

20 (B) Services for persons who have a diagnosis of terminal  
21 illness, a diagnosis of a life-threatening illness, or both. Terminal  
22 illness means the individual has a life expectancy of six months  
23 or less as stated in writing by his or her attending physician and  
24 surgeon. A "life-threatening illness" means the individual has an  
25 illness that can lead to a possibility of a termination of life within  
26 five years or less as stated in writing by his or her attending  
27 physician and surgeon.

28 (C) Services for persons who are catastrophically and severely  
29 disabled. A catastrophically and severely disabled person means  
30 a person whose origin of disability was acquired through trauma  
31 or nondegenerative neurologic illness, for whom it has been  
32 determined that active rehabilitation would be beneficial and to  
33 whom these services are being provided. Services offered by a  
34 congregate living health facility to a catastrophically disabled  
35 person shall include, but not be limited to, speech, physical, and  
36 occupational therapy.

37 (3) A congregate living health facility license shall specify which  
38 of the types of persons described in paragraph (2) to whom a  
39 facility is licensed to provide *the* services.

1 (4) (A) A facility operated by a city and county for the purposes  
2 of delivering services under this section may have a capacity of  
3 59 beds.

4 (B) A congregate living health facility not operated by a city  
5 and county servicing persons who are terminally ill, persons who  
6 have been diagnosed with a life-threatening illness, or both, that  
7 is located in a county with a population of 500,000 or more persons  
8 may have not more than 25 beds for the purpose of serving  
9 terminally ill persons.

10 (C) A congregate living health facility not operated by a city  
11 and county serving persons who are catastrophically and severely  
12 disabled, as defined in subparagraph (C) of paragraph (2) that is  
13 located in a county of 500,000 or more persons may have not more  
14 than 12 beds for the purpose of serving catastrophically and  
15 severely disabled persons.

16 (5) A congregate living health facility shall have a  
17 noninstitutional, homelike environment.

18 (j) (1) "Correctional treatment center" means a health facility  
19 operated by the Department of Corrections, the Department of the  
20 Youth Authority, or a county, city, or city and county law  
21 enforcement agency that, as determined by the state department,  
22 provides inpatient health services to that portion of the inmate  
23 population who do not require a general acute care level of basic  
24 services. This definition shall not apply to those areas of a law  
25 enforcement facility that houses inmates or wards that may be  
26 receiving outpatient services and are housed separately for reasons  
27 of improved access to health care, security, and protection. The  
28 health services provided by a correctional treatment center shall  
29 include, but are not limited to, all of the following basic services:  
30 physician and surgeon, psychiatrist, psychologist, nursing,  
31 pharmacy, and dietary. A correctional treatment center may provide  
32 the following services: laboratory, radiology, perinatal, and any  
33 other services approved by the state department.

34 (2) Outpatient surgical care with anesthesia may be provided,  
35 if the correctional treatment center meets the same requirements  
36 as a surgical clinic licensed pursuant to Section 1204, with the  
37 exception of the requirement that patients remain less than 24  
38 hours.

39 (3) Correctional treatment centers shall maintain written service  
40 agreements with general acute care hospitals to provide for those

- 1 inmate physical health needs that cannot be met by the correctional
- 2 treatment center.
- 3 (4) Physician and surgeon services shall be readily available in
- 4 a correctional treatment center on a 24-hour basis.
- 5 (5) It is not the intent of the Legislature to have a correctional
- 6 treatment center supplant the general acute care hospitals at the
- 7 California Medical Facility, the California Men's Colony, and the
- 8 California Institution for Men. This subdivision shall not be
- 9 construed to prohibit the Department of Corrections from obtaining
- 10 a correctional treatment center license at these sites.
- 11 (k) "Nursing facility" means a health facility licensed pursuant
- 12 to this chapter that is certified to participate as a provider of care
- 13 either as a skilled nursing facility in the federal Medicare Program
- 14 under Title XVIII of the federal Social Security Act or as a nursing
- 15 facility in the federal Medicaid Program under Title XIX of the
- 16 federal Social Security Act, or as both.
- 17 (l) Regulations defining a correctional treatment center described
- 18 in subdivision (j) that is operated by a county, city, or city and
- 19 county, the Department of Corrections, or the Department of the
- 20 Youth Authority, shall not become effective prior to, or if effective,
- 21 shall be inoperative until January 1, 1996, and until that time these
- 22 correctional facilities are exempt from any licensing requirements.



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**Introduced by Senator Calderon**

February 23, 2007

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An act to add Section 650.03 to the Business and Professions Code, relating to physicians and surgeons.

LEGISLATIVE COUNSEL'S DIGEST

SB 907, as introduced, Calderon. Physicians and surgeons: referrals.

Existing law, with certain exceptions, prohibits the offer, delivery, receipt, or acceptance by any healing arts licensee regulated by the Business and Professions Code or under the Chiropractic Initiative Act, of any rebate, refund, commission, preference, patronage dividend, discount, or other consideration, as compensation or an inducement for referring patients, clients, or customers to any person.

This bill would provide that it is not unlawful for a physician and surgeon to provide consideration for a referral for an elective cosmetic procedure if specified conditions are met.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 650.03 is added to the Business and
- 2 Professions Code, to read:
- 3 650.03. Notwithstanding Section 650, or any other provision
- 4 of law, it shall not be unlawful for a physician and surgeon licensed
- 5 under this division to provide consideration for a referral if all of
- 6 the following conditions are satisfied:
- 7 (a) The referral is made by an employee of the physician and
- 8 surgeon.

- 1 (b) The referral is for an elective cosmetic procedure performed
- 2 under local anesthetic.
- 3 (c) The individual referred made the initial contact or inquiry.
- 4 (d) The physician and surgeon charges no more than his or her
- 5 usual and customary fee for the elective cosmetic procedure
- 6 performed.
- 7 (e) The consideration does not exceed two hundred fifty dollars
- 8 (\$250).
- 9 (f) The physician and surgeon discloses the referral arrangement
- 10 to the individual referred.

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**Introduced by Senator Calderon**

February 23, 2007

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An act to amend Section 2904 of, and to add Article 1.5 (commencing with Section 2919.10) to Chapter 6.6 of Division 2 of, the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 993, as introduced, Calderon. Psychologists: scope of practice: prescribing drugs.

Existing law, the Psychology Licensing Law, provides for the licensure and regulation of the practice of psychology by the Board of Psychology in the Department of Consumer Affairs. Existing law excludes prescribing drugs from the scope of practice of a licensed psychologist.

This bill would, with certain exceptions, authorize the board to grant a prescription certificate or a conditional prescription certificate to a licensed psychologist authorizing, within the scope of practice of a psychologist, the prescription of certain drugs if certain conditions are met.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. The Legislature finds and declares all of the  
2 following:

3 (a) The delivery of comprehensive, accessible, and affordable  
4 medical care may be enhanced by providing trained medical  
5 psychologists, licensed in California, with limited prescriptive

1 authority for the specific purpose of providing integrated mental  
2 health care services. The Legislature has previously authorized  
3 prescription privileges to advanced nurse practitioners,  
4 optometrists, dentists, podiatrists, osteopaths, physician assistants,  
5 and naturopaths.

6 (b) Psychologists with appropriate credentials have been allowed  
7 to prescribe medications to active duty personnel and their families  
8 in military facilities for many years. Louisiana and New Mexico  
9 are two states that have adopted legislation authorizing prescriptive  
10 authority for psychologists.

11 (c) For many years, psychologists in California have been  
12 allowed to discuss and recommend psychotropic medications to  
13 both patients and physicians. California psychologists routinely  
14 collaborate with primary care physicians to provide combined  
15 therapy and psychopharmacological care for their patients.  
16 California psychologists have independent hospital privileges.

17 (d) California licensed psychologists complete an average of  
18 seven years of postbaccalaureate study and three thousand hours  
19 of postgraduate supervised practice in the diagnosis and treatment  
20 of mental illness. Medical psychologists have earned additional  
21 Master of Science degrees in clinical psychopharmacology, or its  
22 equivalent, and passed a national examination in  
23 psychopharmacology. Because the current scope of medical  
24 psychologists' practice in California does not include prescribing  
25 medications, patients must consult with and pay for another  
26 provider to obtain the requisite prescription. However, physicians  
27 are not readily available in many areas and for minority  
28 populations.

29 (e) This is a particular hardship for patients residing in health  
30 care treatment-shortage areas and in rural areas. For patients who  
31 require treatment in county and state mental health facilities,  
32 including the Department of Corrections and Rehabilitation,  
33 medical psychologists could eliminate the problem of access to  
34 care and psychiatrist shortages while significantly enhancing  
35 mental health treatment. Timely, efficient, and cost-effective  
36 treatment of mental illnesses could avoid the significantly greater  
37 social, economic, and medical costs of nontreatment for these  
38 needy populations.

39 (f) Research data soundly demonstrates that there is not enough  
40 mental health care available to serve the needs of all people in the

1 California due to the severe shortages of psychiatrists. Further, the  
2 economically disadvantaged and medically underserved would  
3 receive little or no mental health services if not for the services  
4 provided by clinical psychologists.

5 (g) The State of California has long recognized the  
6 extraordinarily deficient mental health care of its citizens.  
7 California has some of the highest rates of untreated psychological  
8 concerns in the United States. Recent concerns include the  
9 receivership of the prison system due to the state's inability to  
10 provide adequate mental and physical health care to inmates. There  
11 are several outstanding lawsuits against the State of California  
12 alleging that inmates and patients at state mental hospitals are not  
13 receiving constitutionally adequate mental health care due to the  
14 severe shortage of competent psychiatrists.

15 (h) Further exacerbating the dire need for mental health  
16 treatment in underserved areas is the fact that patients from diverse  
17 cultural backgrounds are reluctant to seek treatment due to the  
18 stigma of mental health problems. Timely access to accurate  
19 diagnosis and effective treatment of emotional and behavioral  
20 disorders also may contribute substantially to the state's  
21 responsibilities to children and needy adults in underserved rural  
22 areas.

23 (i) Professional psychology has developed a model curriculum  
24 for the education and training of prescribing psychologists.  
25 Independent evaluations of the Department of Defense  
26 Psychopharmacological Demonstration Project by the United States  
27 General Accounting Office and the American College of  
28 Neuropsychopharmacology have found that appropriately trained  
29 medical psychologists prescribe safely and effectively. Two states,  
30 New Mexico and Louisiana, and the territory of Guam, now allow  
31 appropriately trained psychologists to prescribe psychotropic  
32 medications. Psychologists in the military have been providing  
33 medication services to personnel and their families since 1990.  
34 Hundreds of thousands to over 1,000,000 prescriptions written by  
35 psychologists with not one patient injured. This record far exceeds  
36 the safety records of any prescribing class of professionals.

37 SEC. 2. Section 2904 of the Business and Professions Code is  
38 amended to read:

39 2904. The practice of psychology shall not include ~~prescribing~~  
40 ~~drugs~~, performing surgery or administering electroconvulsive

1 therapy. *The practice of psychology shall not include prescribing*  
2 *drugs, except as authorized pursuant to Article 1.5 (commencing*  
3 *with Section 2919.10).*

4 SEC. 3. Article 1.5 (commencing with Section 2919.10) is  
5 added to Chapter 6.6 of Division 2 of the Business and Professions  
6 Code, to read:

7

8 Article 1.5. Prescription Certificate and Conditional Prescription  
9 Certificate.

10

11 2919.10. As used in this article the following terms have the  
12 following meanings, unless the context otherwise requires:

13 (a) "Board" means the Board of Psychology.

14 (b) "Collaborative relationship" means a cooperative working  
15 relationship between a psychologist holding a conditional  
16 prescription certificate and a doctor of medicine in the provision  
17 of patient care, including diagnosis and cooperation in the  
18 management and delivery of physical and mental health care.

19 (c) "Narcotics" mean natural and synthetic opioid analgesics,  
20 and their derivatives used to relieve pain.

21 (d) "Nonpsychotropic treating formulary" means any medication  
22 that is labeled to treat adverse conditions caused by a psychotropic  
23 medication.

24 (e) "Prescribing mental health professional" means a medically  
25 trained and licensed physician, psychiatrist, advance practice nurse,  
26 or nurse practitioner specializing in mental health care.

27 (f) "Psychotropic medication" means only those agents related  
28 to the diagnosis and treatment of mental and emotional disorders,  
29 including controlled substances, except narcotics.

30 2919.15. (a) A psychologist may apply to the board for a  
31 conditional prescription certificate. The application shall be made  
32 on a form approved by the board, and be accompanied by evidence  
33 satisfactory to the board, that the applicant complies with all of  
34 the following:

35 (1) Holds a current license in good standing to practice  
36 psychology in the state.

37 (2) Has successfully completed a planned sequence of  
38 psychopharmacological training from an institution of higher  
39 learning approved by the board, or from a continuing education  
40 program consistent with professional psychology's postdoctoral

1 training in psychopharmacology or has been recommended by the  
2 National Alliance of Professional Psychology Providers. Any  
3 applicant who has received a postdoctoral Master of Science degree  
4 in psychopharmacology from a regionally accredited institution  
5 of higher learning, or an educational institution approved by the  
6 state to provide this education, or received a certificate of  
7 completion from an approved provider of continuing education  
8 designated by the board to provide this training to California  
9 licensed psychologists, shall be deemed as meeting the  
10 requirements of this section. This training shall include didactic  
11 classroom instruction in at least the following core areas of  
12 instruction:

- 13 (A) Anatomy and physiology.
- 14 (B) Biochemistry.
- 15 (C) Neurosciences.
- 16 (D) Pharmacology.
- 17 (E) Psychopharmacology.
- 18 (F) Pathophysiology.
- 19 (G) Health assessment, including relevant physical and  
20 laboratory assessment.

21 (H) Clinical pharmacotherapeutics.  
22 (3) Has passed a national proficiency examination, approved  
23 by the board, that tests the applicant's knowledge of pharmacology  
24 in the diagnosis, care, and treatment of mental disorders. The board  
25 shall establish what constitutes a passing score and the number of  
26 times an applicant may retake the exam within a specific time  
27 period.

28 (4) Applies for a federal Drug Enforcement License for limited  
29 use as restricted by state law.

30 (5) Meets all other requirements, as determined by rules adopted  
31 by the board pursuant to obtaining a conditional prescription  
32 certificate.

33 (b) The board shall issue a conditional prescription certificate  
34 if it finds that the applicant has met the requirements of this section.

35 2191.20. (a) A psychologist holding a conditional prescription  
36 certificate may administer and prescribe psychotropic medication  
37 within the recognized scope of the profession, including the  
38 ordering and review of laboratory tests in conjunction with  
39 prescribing medication for the treatment of mental disorders.

(b) When prescribing psychotropic medication for a patient, a psychologist holding a conditional prescription certificate shall maintain an ongoing collaborative relationship with the medical practitioner who oversees the patient's general medical care to ensure that necessary medical examinations are conducted, and to be aware of any significant changes in the patient's physical condition.

(c) A prescription written by a psychologist with a conditional prescription certificate shall do all of the following:

(1) Comply with applicable state and federal laws.

(2) Be identified as issued by the psychologist as a "Medical Psychologist."

(3) Include the psychologist's board number or the identification number assigned by the department of commerce and consumer affairs.

(d) A psychologist holding a conditional prescription certificate shall not delegate prescriptive authority to any other person. Records of all prescriptions shall be maintained in the prescribing psychologists' patient records.

(e) When authorized to prescribe controlled substances, a psychologist holding a conditional prescription certificate shall file with the board in a timely manner all individual federal Drug Enforcement Agency registrations and numbers.

2191.25. (a) A psychologist may apply to the board for a prescription certificate. The application shall be made on a form approved by the board and be accompanied by evidence satisfactory to the board that the applicant complies with all of the following:

(1) Has been issued a conditional prescription certificate and has successfully completed one year of prescribing psychotropic medication.

(2) Holds a current license to practice psychology in California.

(3) Meets all other requirements, as determined by rule of the board, for obtaining a prescription certificate.

(b) The board shall issue a prescription certificate if it finds that the applicant has met the requirements of subdivision (a).

2191.30. A psychologist with a prescription certificate may prescribe psychotropic medication if the psychologist complies with all of the following:

(a) Continues to hold a current license to practice psychology in California.



1 (b) Complies with the requirements set forth in paragraph (2)  
2 of subdivision (a) of Section 2919.15.

3 (c) Annually satisfies the continuing education requirements  
4 for psychologists, if any are set by the board.

5 2191.35. (a) By July 1, 2008, the board shall adopt rules  
6 pursuant to establishing the procedures to be followed to obtain a  
7 conditional prescription certificate, a prescription certificate, and  
8 renewals of a conditional prescription certificate and prescription  
9 certificate. The board may set reasonable application and renewal  
10 fees.

11 (b) The board shall adopt rules pursuant to establishing the  
12 grounds for denial, suspension, or revocation of a conditional  
13 prescription certificate and prescription certificate including a  
14 provision for suspension or revocation of a license to practice  
15 psychology upon suspension or revocation of a conditional  
16 prescription certificate or prescription certificate. Actions of denial,  
17 suspension, or revocation of a conditional prescription certificate  
18 or a prescription certificate shall be in accordance with this chapter.

19 (c) The board shall maintain current records on every prescribing  
20 psychologist, including federal registrations and numbers.

21 (d) The board shall provide to the California State Board of  
22 Pharmacy an annual list of psychologists holding a conditional  
23 prescription certificate that contains the information agreed upon  
24 between the board and the board of pharmacy. The board shall  
25 promptly notify the board of pharmacy of psychologists who are  
26 added or deleted from the list.

27 (e) The board shall be the sole and exclusive administrative  
28 body to implement and oversee this article.

29 2191.40. (a) This article shall not be construed to permit a  
30 medical psychologist to administer or prescribe a narcotic.

31 (b) This article shall not apply to any of the following:

32 (1) Any person teaching, lecturing, consulting, or engaging in  
33 research in psychology insofar as the activities are performed as  
34 part of or are dependent upon employment in a college or  
35 university, provided that the person shall not engage in the practice  
36 of psychology outside the responsibilities of the person's  
37 employment.

38 (2) Any person who performs any, or any combination, of the  
39 professional services defined as the practice of psychology under  
40 the direction of a licensed psychologist in accordance with rules

1 adopted by the board, provided that the person may use the term  
2 “psychological assistant,” but shall not identify the person’s self  
3 as a psychologist or imply that the person is licensed to practice  
4 psychology.

5 (3) Any person employed by a local, state, or federal government  
6 agency in a school psychologist or psychological examiner  
7 position, or a position that does not involve diagnostic or treatment  
8 services, but only at those times when that person is carrying out  
9 the functions of that government employment.

10 (4) Any person who is a student of psychology, a psychological  
11 intern, or a resident in psychology preparing for the profession of  
12 psychology under supervision in a training institution or facility  
13 and who is designated by a title as “psychology trainee,”  
14 “psychology student,” “psychology intern,” or “psychology  
15 resident,” that indicates the person’s training status; provided that  
16 the person shall not identify the person’s self as a psychologist or  
17 imply that the person is licensed to practice psychology.

18 (5) Any person who is a member of another profession licensed  
19 under the laws of this jurisdiction to render or advertise services,  
20 including psychotherapy, within the scope of practice as defined  
21 in the statutes or rules regulating the person’s professional practice,  
22 provided that the person does not represent the person’s self to be  
23 a psychologist or does not represent that the person is licensed to  
24 practice psychology.

25 (6) Any person who is a member of a mental health profession  
26 not requiring licensure, provided that the person functions only  
27 within the person’s professional capacities, and provided further  
28 that the person does not represent the person to be a psychologist,  
29 or the person’s services as psychological.

30 (7) Any person who is a duly recognized member of the clergy;  
31 provided that the person functions only within the person’s  
32 capacities as a member of the clergy; and provided further that the  
33 person does not represent the person to be a psychologist, or the  
34 person’s services as psychological.